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A DIGEST  
OF THE  
Laws and Ordinances

FOR THE GOVERNMENT OF THE MUNICIPAL  
CORPORATION OF THE  
*Council*  
CITY OF HARRISBURG *Laws etc*  
PENNSYLVANIA

IN FORCE AUGUST 1, A. D. 1906



PUBLISHED BY AUTHORITY OF CITY COUNCILS

PART I.

By LOUIS RICHARDS, ESQUIRE  
of the Berks County Bar

PART II.

By JAMES M. LAMBERTON, ESQUIRE  
of the Dauphin County Bar

NEWARK, N. J.  
SONEY & SAGE

1906

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## PREFACE.

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Under a resolution adopted April 23, 1846, there was "Published by Order of the Town Council" "The Laws of the Borough of Harrisburg: To Which is Prefixed The Act of Assembly Incorporating the Borough." The "laws," or ordinances, were arranged according to the date of their enactment, an index occupying fourteen of the sixty-eight pages of the book.

Under a resolution adopted March 23, 1863 (Ordinance Book 1, page 109), a book of one hundred and fifty-five pages, including the index, was published, entitled "Ordinances of the City of Harrisburg, the Act of Incorporation and All Laws Relating to the City."

Under a resolution adopted December 5, 1868, an addition of one hundred and four pages was published in 1869, entitled "Acts of Assembly Relating to and Ordinances of the City of Harrisburg, Passed Since May, 1863," and by ordinance of April 23, 1872 (Ordinance Book 1, page 536), another addition of fifty-seven pages was published with the same title, excepting that "Since February, 1869," was substituted for "Since May, 1863."

Under resolutions adopted April 1, 1879 (Ordinance Book 3, page 223), and by ordinance of December 10, 1881 (Ordinance Book 3, page 402), there was printed, in 1883, a "Digest of Laws and Code of Ordinances of the City of Harrisburg 1795-1883," containing one hundred and eighty-three pages, which was prepared by the City Solicitor, Thomas S. Hargest, Esquire. At the beginning of the book was given the "First and Original Act Relating to Harrisburg" (April 13, 1791,) and the last thirty-nine sections of the Act of September 12, 1783, referred to in the former Act, and also a list of fifty-four "Acts of Assembly," which were regarded as "chiefly valuable for reference and as part of the history of the city." The "Code of Ordinances" was not enacted into law.

This "Digest of the Laws and Ordinances" has been prepared under the provisions of the ordinance of May 31, 1902 (Ordinance Book C, page 24), as amended by the ordinance of March 25, 1905 (Ordinance Book D, page 335).

Part I. comprises all general Acts of Assembly for the incorporation and government of Cities of the Third Class, enacted

by the Legislature up to and including the session of 1905, with notes of decisions, and has been prepared by Louis Richards, Esquire, of the Berks County Bar.

Part II., prepared by the writer, consists of all the ordinances of the City since its incorporation in 1860, and of special Acts of Assembly relating thereto, which are in force and of permanent value.

In preparing the Digest of Ordinances, &c., the writer compiled and annotated a "List of Special Acts of Assembly Relating to Harrisburg, Pennsylvania," to be included in the Digest, but the list was so long, comprising so many Acts that were no longer in force or of permanent value, that it was decided by proper authority that it would not be well to encumber the Digest with it, and, under resolution of March 6, 1906, the list was ordered to be printed by itself, making a pamphlet of fifty pages.

The writer wishes to acknowledge the hearty co-operation of the City Solicitor, Daniel S. Seitz, Esquire, and of the City Clerk, Mr. Charles A. Miller.

JAMES M. LAMBERTON.

Harrisburg, Pa., August 1, 1906.



## CONCURRENT RESOLUTION.

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### IN THE SELECT COUNCIL:

*Resolved* (the Common Council concurring), 1. That copies of the City Digest be distributed as follows:

#### Executive Department—

One copy to the mayor, one copy to the chief of police, and five copies for use in the mayor's office.

#### Legislative Department—

One copy to each member of select and common council, and the clerk of select council.

#### City Clerk's Department—

Three copies to the city clerk, and ten copies for use in his office.

#### Treasury Department—

One copy to the city treasurer, and two copies for use in his office.

#### Finance Department—

One copy to the city controller, and two copies for use in his office.

#### Law Department—

Three copies to the city solicitor, and two copies for use in his office.

#### Highway Department—

One copy to the highway commissioner, and two copies for use in his office.

#### City Engineer's Department—

One copy to the city engineer, and two copies for use in his office.

#### Fire Department—

One copy to the chief engineer, the assistant engineer, and each fire house, respectively.

#### Fire and Police Alarm Department—

One copy to the superintendent.

#### Sanitary Department—

One copy to the city physician.

#### Building Inspector's Department—

One copy to the building inspector, and two copies for use in his office.

#### Water Department—

One copy to each member of the board of water commissioners and the superintendent, and three copies for use in the department.

**Public Works Department—**

One copy to each member of the board of public works, and one copy for use in their office.

**Park Department—**

One copy to each member of the park commission, and three copies for use in the department.

**Miscellaneous—**

One copy to each of the judges of this judicial district, the district attorney and the county solicitor.

One copy to each of the aldermen of the City of Harrisburg.

One copy to each of the city assessors.

One copy to each city of the third class, in exchange for a similar publication.

One copy for use in the office of the county commissioners.

One copy for use at the Dauphin County Prison.

One copy to each of the following: The State Library, the Dauphin County Law Library, the Public Library, the Historical Society of Dauphin County, Pa., the Harrisburg Hospital and the Board of Trade.

One copy to each of the daily newspapers for their libraries, and to each of the official councilmanic reporters.

To the compilers: Louis Richards, Esq., two copies, and James M. Lamberton, Esq., five copies.

*Resolved*, 2, That the remaining copies of the City Digest be sold at cost price, \$5.00 per copy, under the direction of the city clerk, who shall furnish copies only upon presentation of the city treasurer's receipt for the price.

Approved this 23d day of October, A. D. 1906.

EDWARD Z. GROSS,

[SEAL.]

*Mayor.*

Attest:

CHAS. A. MILLER,  
*City Clerk.*

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A DIGEST  
OF THE  
General Acts of Assembly  
OF  
PENNSYLVANIA  
FOR THE INCORPORATION AND GOVERNMENT OF  
Cities of the Third Class

With Notes of Decisions

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THIRD EDITION.

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By LOUIS RICHARDS, Esq.  
Author of the Pennsylvania Form Book, Etc.

NEWARK, N. J.  
SONEY & SAGE

1906

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## PREFACE.

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The third edition of the Digest, herewith presented, has been compiled upon the same plan as the preceding ones, and with the same purpose of completeness. The recent multiplication of statutes amending the Act of 1889 for the government of cities of the third class, together with the various additions to those affecting cities in general, has rendered the municipal code increasingly complex, and the work of digesting it a correspondingly difficult undertaking. The effort in the present publication has been to preserve every act upon the subject in hand that appears, in the absence of express judicial construction to the contrary, to have any continuing force.

Between eight and nine hundred decisions of the various courts of the State, construing the statutes, or interpreting the municipal system, will be found cited in the notes. In the latter, reference is also made to numerous acts which bear a topical relation to those published in the text. With reference to the arrangement of the acts which have been amended, it is to be observed that the dates of the original acts have been preserved in the marginal indexes, and those of the successive amendments inserted in the foot notes.

READING, January 1, 1906.



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# GENERAL ACTS OF ASSEMBLY

FOR THE GOVERNMENT OF

## CITIES OF THE THIRD CLASS.

### Aldermen.

[See FINES AND PENALTIES.]

#### I. ELECTION OF ALDERMEN.

1. Constitutional provision. Qualifications.
2. Election of aldermen in cities of third class.
3. When terms to expire.
4. Constables to give notice.

#### II. VACANCIES.

5. How vacancies to be filled.
6. Aldermen to file acceptance with prothonotary. Governor to issue commission. Fee. Oath.

#### III. FEES.

7. Fees of aldermen throughout the state. Fees under U. S. laws.

#### IV. APPEALS AND TRANSCRIPTS.

8. Aldermen may demand costs in advance before delivering transcript. When to be recovered back.
9. Also costs upon transcript of judgment. Except where appellants are unable to pay.
10. Transcript in cases of felony to be returned within five days. Penalty.

#### I. Election of Aldermen.

1. Except as otherwise provided in this constitution, justices of the peace or aldermen shall be elected in the several wards, districts, boroughs and townships at the time of the election of constables, by the qualified electors thereof, in such manner as shall be directed by law, and shall be commissioned by the governor for a term of five years. No township, ward, district or borough shall elect more than two justices of the peace or aldermen, without the consent of a majority of the qualified electors within such township, ward or borough;<sup>1</sup> no person shall be elected to such office unless he shall have resided within the township, borough, ward or district for one year next preceding his election. In cities containing over fifty thousand inhabitants, not more than one alderman shall be elected in each ward or district.

2. Each of the wards of each of the said cities shall be entitled to elect one alderman,<sup>2</sup> who shall have all the powers and jurisdiction of a justice of the peace, and said alderman

Const. 1874,  
Art. V. § 11.

Constitutional  
provision.

Qualifications.

<sup>1</sup> This provision does not command the election of two justices of the peace for each ward of a borough. *Commonwealth v. Morgan*, 178 Pa. 198.

<sup>2</sup> Cities of the third class, whether incorporated under the Act of 1874 or that of 1880, are entitled to elect but one alderman in each ward. *Commonwealth v.*

*Hastings*, 16 Pa. C. C. R. 425; *Harris's Application*, 4 Dist. R. 320. *Quere*, whether, under the constitution, the election of an alderman in every ward in cities of the second and third classes is obligatory, or whether the present number in such cities may not be reduced by legislation?

23 May 1874.  
§ 32. P. L. 248.

23 May 1874.

Election of  
aldermen in  
cities of third  
class.

shall be elected at the municipal election next preceding the expiration of the commission of the justice of the peace resident in the district out of which the said ward shall be created; if two justices of the peace reside therein, then the alderman shall be the successor of the justice of the peace whose commission shall first expire; and no successor shall be elected to the one still in office, but his commission shall be and remain in full force until its expiration.<sup>1</sup>

22 March 1877.  
§ 1. P. L. 12.

When terms to  
expire.

3. All aldermen or justices of the peace who shall be elected on the third Tuesday of February next, or in any year thereafter, whose terms of office would under existing laws expire prior to the first Monday of May, shall continue in office from the date at which said term would otherwise expire until the first Monday of May next ensuing thereto.

Id. § 2.

Constables to  
give notice.

4. It shall be the duty of the constable of the proper ward, district, borough or township to give at least twenty days' notice, by advertisement preceding the election to be held on the third Tuesday of February of each year, of the expiration of the term of the commission of any alderman or justice of the peace that may expire on or before the first Monday of May following, and also of any vacancy that may happen by death, resignation or otherwise.

## II. Vacancies.

22 March 1877.  
§ 3. P. L. 12.

How vacancies  
to be filled.

5. If any vacancy shall take place after any ward, district, borough or township election, by reason of the erection of any new ward, district, borough or township, or from the neglect or refusal of any person elected to accept a commission within sixty days after the date thereof, or by death, resignation or otherwise, such vacancy shall be filled by appointment by the governor until the first Monday of May succeeding the next ward, district, borough or township election.<sup>2</sup>

Id. § 4.

Aldermen to  
file acceptance  
with pro-  
thonotary.

6. The aldermen or justices of the peace, elected under the provisions of this act, shall file an acceptance of said office with the prothonotary of the proper county, stating therein the name of the alderman or justice of the peace whom they succeed, with the cause of vacancy; and said prothonotary shall certify the same under his seal of office to the secretary of the commonwealth, whereupon the governor shall issue commission to such persons as shall appear to be duly elected,

Governor to  
issue com-  
mission.

<sup>1</sup>The amount of the official bond of aldermen and justices of the peace is to be fixed by the court of common pleas, under the Act of June 21, 1830, § 6, P. L. 376, and the bond must be recorded. By the Act of April 23, 1903, P. L. 290, justices are required to provide themselves with an official seal, similar to that used by notaries public, which is to be affixed to all official papers, together with a statement of the date of the expiration of their commissions.

<sup>2</sup>This section is not in conflict with Sec. 8 of Art. IV. of the constitution, authorizing the governor to fill vacancies

until the next succeeding general election. The constitutional provision was not intended to apply to officers elective at the February election. *Commonwealth v. Callen*, 101 Pa. 375. It also modifies the Act of May 6, 1874, P. L. 118, in respect to the duration of the term of the appointee. The power given to the governor by the Act of 1877 to fill vacancies is not disturbed by the provision for the election of ward officers in territory annexed to a city of the third class under Sec. 5 of Art. III. of the Act of May 23, 1880, P. L. 281. *Commonwealth v. Machemer*, 18 Pa. C. C. R. 92; 5 Dist. R. 560.

for the term of five years, to be computed from the first Monday of May succeeding the election, for which said commission each person so elected an alderman or justice of the peace shall pay three dollars, to be received by the recorder of deeds of the proper county, to be by him transmitted to the secretary of the commonwealth as fees for other commissions are transmitted; and the said aldermen or justices of the peace shall be by the said recorder sworn or affirmed in the manner now provided by law.

### III. Fees.

7. From and after the passage of this act the fees of justices of the peace, magistrates and aldermen shall be:<sup>1</sup>

	Dolls.	Cts.
For information or complaint on behalf of the commonwealth .....	50	Fees of aldermen throughout the state.
Docket-entry of action on behalf of the commonwealth .....	25	
Warrant, mittimus or capias, on behalf of the commonwealth .....	50	
Writing an examination or confession of defendant .....	50	
Hearing in criminal cases .....	50	
Administering oath or affidavit in criminal or civil cases .....	10	
Taking recognizance in criminal case .....	50	
Transcript in criminal case, including certificate .....	50	
Entering judgment on conviction for fine .....	50	
Recording conviction .....	25	
Warrant to levy fine or forfeiture .....	30	
Bail piece and return supersedeas .....	30	
Discharge to jailor .....	35	
Entering discontinuance in case of an assault and battery .....	50	
Entering complaint of master, mistress or an apprentice .....	30	
Notice to master, mistress or apprentice .....	25	
Hearing parties .....	50	
Holding inquisition under landlord and tenant act, or in case of forcible entry, each day, each justice .....	2	00
Process, et cetera, to sheriff, each justice .....	75	
Recording proceedings, each justice .....	1	50
Writ of restitution, each justice .....	75	
Warrant to appraise damages .....	30	
Warrant to sell strays .....	30	
Warrant to appraise swine .....	35	

<sup>1</sup>The above act repeals the Act of April 2, 1868, P. L. 3, and is intended to be of uniform application throughout the state. *Fenner v. Luzerne County*, 167 Pa.

632; *Fraim v. Lancaster County*, 171 Id. 436. It also repeals all local acts as to all fees therein specified. *Hays v. Cumberland County*, 5 Super. Ct. R. 159.

	Dolls.	Cts.
28 May 1908. Receiving and entering return of appraisement of swine .....		25
Publishing proceedings of appraisers of swine....		75
Entering action in civil case.....		25
Summons or subpoena.....		25
Capias in civil case.....		50
Every additional name after the first, all witnesses' names to be in one subpoena, unless separate subpoenas be requested by the parties.....		10
Subpoena duces tecum.....		25
Entering return of summons.....		25
Entering capias and bail-bond.....		25
Every continuance of a suit.....		20
Trial and judgment in case.....		50
Taking bail or plea of freehold.....		25
Entering satisfaction .....		15
Entering discontinuance of suit.....		15
Entering amicable suit.....		50
Entering rule to take deposition of witnesses.....		15
Rule to take depositions.....		25
Entering return of rule, in any case.....		15
Interrogatories annexed to rule to take depositions.		25
Entering rule to refer.....		15
Rule of reference.....		25
Notice to each referee.....		25
Entering report of referees and judgment thereon.		30
Written notice, in any case.....		25
Execution .....		30
Entering return of execution.....		15
Scire facias, in any case.....		35
Opening judgment for a re-hearing.....		25
Transcript of judgment and certificate.....		50
Return of proceedings on certorari or appeal, including recognizances .....	1	00
Receiving the amount of a judgment and paying the same over, if not exceeding ten dollars...		25
If exceeding ten and not exceeding forty dollars...		50
If exceeding forty and not exceeding sixty dollars.		75
If exceeding sixty and not exceeding one hundred dollars .....	1	00
And a like amount on each one hundred up to three hundred.		
Every search service, to which no fees are attached.		20
Affidavit in case of attachment.....		30
Entering action in case of attachment.....		25
Attachment, in any case.....		35
Recognizance .....		50
Interrogatories .....		35
Rule on garnishee.....		25

# ALDERMEN.

5

	Dolls.	Cts.
Return of rule on garnishee.....	25	<sup>23</sup> May 1898.
Bond in case of attachment.....	50	
Entering return and appointing freeholders.....	25	
Advertisement, each .....	25	
Order to sell goods.....	35	
Order for the relief of a pauper, each justice.....	50	
Entering transcript of judgment from another justice or alderman.....	50	
Order for the removal of a pauper, each justice or alderman .....	1	00
Order to seize goods for the maintenance of wife and children .....	50	
Order for premium for wolf, fox or other scalps, to be paid by the county.....	25	
Every acknowledgment, or probate of deed or other instrument of writing, for first name.....	50	
Each additional name after the first.....	25	
Taking and signing acknowledgment of indenture of an apprentice.....	50	
Assignment and making record of indenture.....	50	
Canceling indenture .....	50	
Comparing and signing tax duplicates, each alderman .....	75	
Marrying each couple, making record thereof, and certificate to the parties.....	5	00
Certificate of approbation of two justices to the binding as apprentice of a person by the directors of the poor, each justice.....	35	
Certificate to obtain land-warrant.....	75	
Swearing or affirming county commissioner, assessor, director of the poor, or other township officer or county officer, and certificate.....	50	
Administering oaths or affirmations, in any case not herein provided for.....	25	
Justifying parties on bonds for tavern licenses....	1	00
Entering complaint in landlord and tenant proceedings, Act 1830.....	25	
Issuing process, in landlord and tenant proceedings, Act 1830.....	25	
Hearing and determining case in landlord and tenant proceedings, Act 1830.....	50	
Record of proceedings, in landlord and tenant proceedings, Act 1830.....	50	
Writ of possession (and return), in landlord and tenant proceedings, Act 1830.....	50	

When more than one magistrate is required in landlord and tenant proceedings, the above fees shall be charged by each magistrate.

	Dolls.	Cts.
23 May 1863. Entering complaint, in landlord and tenant proceedings, Act 1863.....	75	
Issuing process in landlord and tenant proceedings, Act 1863.....	75	
Hearing and determining case, Act 1863.....	1	00
Record of proceedings, Act 1863.....	1	50
Issuing writ of restitution (and return), Act 1863.	1	00
Fees under U. S. laws. The fees for services under the laws of the United States shall be as follows:		
For certificate of protection.....	50	
For certificate of lost protection.....	25	
Warrant .....	25	
Commitment .....	25	
Summons for seamen in admiralty case.....	25	
Hearing thereon, with docket entry.....	50	
For certificate to clerk of the district court to issue admiralty process .....	25	
For affidavits of claims and copies thereof.....	25	
The fees for services not herein specially provided shall be the same as for similar services. <sup>1</sup>		

#### IV. Appeals and Transcripts.

24 June 1885.  
§ 1. P. L. 160.

Aldermen may demand costs in advance before delivering transcript.

When to be recovered back.

Id. § 2.

Also costs upon transcript of judgment.

8. In all cases of appeal from the judgment of an alderman or a justice of the peace, the said alderman or justice shall be entitled to demand and receive from the appellant the costs in the case, before the making and delivery of the transcripts for said appeal; and, if the appellant shall finally recover judgment in the case appealed, he shall be entitled to receive and collect from the adverse party the costs so as aforesaid paid on appeal.<sup>2</sup>

9. Aldermen and justices of the peace shall have the same right to demand and receive the costs as aforesaid before issuing a transcript of a judgment recovered before them for entry in the court of common pleas, or other purpose, and the party paying the same shall be entitled to recover them

<sup>1</sup> See the Act of June 11, 1879, P. L. 148, requiring magistrates in cities to authenticate pension applications without charge. For their fees for commitment of vagrants, see that title. By the Act of July 3, 1885, P. L. 256, the compensation of witnesses before aldermen and justices of the peace, in civil and criminal cases, is fixed at 50 cents per day, and 3 cents per mile.

<sup>2</sup> By the Act of July 15, 1897, P. L. 300, as amended by the Act of April 19, 1901, P. L. 84, where the appeal is by the defendant all costs accrued which have been paid by the plaintiff are thereupon to be returned to him, unless bail absolute is entered by the defendant for payment of debt, interest and costs on affirmance of the judgment, in which case he is required to pay the costs of the appeal only. By

the Act of March 25, 1903, P. L. 61, "no appeal shall be allowed from the judgment of a justice of the peace or alderman unless the appellant, or his attorney or agent, at the time of taking said appeal shall make affidavit in writing that the appeal is not for delay, but because he verily believes that injustice has been done." By the Act of April 22, 1905, P. L. 296, it is made the duty of the plaintiff in every judgment obtained before a justice of the peace or alderman against any borough, township or school district, to file within one week thereafter, in the office of the prothonotary, a certificate giving the particulars of such judgment, of which a separate record is to be kept; in default of which procedure no transcript of the judgment can be filed or used as evidence.

from the party legally liable to pay the same; *Provided, however,* That any party to a suit before an alderman or justice of the peace shall have the right to appeal, and demand and receive transcripts, without payment of costs as hereinbefore provided on their making and filing with the alderman or justice of the peace an affidavit that they are unable through poverty to pay said costs.

10. From and after the passage of this act, it shall be the duty of all aldermen, justices of the peace and committing magistrates in this commonwealth, upon complaint being made in criminal cases upon oath or affirmation of any person or persons, to enter such complaint upon their dockets, with the name, residence and occupation, if any, of all defendants, bail and witnesses, in every criminal case, and to return to the clerk of the court of quarter sessions of the peace of the several counties respectively, a true transcript from the said docket within five days after the binding over, or committal of any defendant or defendants, charged with any felony; and any willful violation of the requirements of this section is hereby declared a misdemeanor in office, and on conviction thereof, the party so offending shall be fined in a sum not exceeding three hundred dollars, and the costs of prosecution.<sup>1</sup>

24 June 1885.

Except where appellants are unable to pay.

11 June 1885.  
§ 1. P. L. 110.

Transcript in cases of felony to be returned within five days.

Penalty.

<sup>1</sup> See the Act of March 10, 1905, P. L. 35, prohibiting the duplication of process

in criminal cases upon charges constituting but a single offense.

## Alleys.

[See STREETS.]

1. Procedure for vacation of alleys, etc., declared nuisances by health authorities. Petition of property owners to court of quarter sessions. Contents of petition. Certificate. Jury of view to be appointed.  
2. Notice of meeting of viewers. View and inquiry. Report. Award of damages

and benefits. Notice of report to parties interested. Exceptions. Reconsideration of report.

3. Filing of report. Appeal to court of common pleas. Procedure on appeal. Confirmation of report. Application of act.

1. From and after the passage of this act, where the bureau of health or health officers of any city, county, township, borough, or district in the state shall declare as a public nuisance and menace to health any alley, lane, or passageway located therein, used wholly or partly by the public, that thereupon any two or more owners of property adjacent, contiguous, or abutting upon the same, may present their petition, duly verified by oath or affirmation, to the court of quarter sessions of the said city or county in which the said alley, lane, or passageway is located, setting forth the facts regarding the said nuisance, and praying that the said alley, lane, passageway, or so much thereof as may be necessary, be vacated; which said petition shall be accompanied by a certificate of the bureau of health or health officers, setting forth that they have declared the said alley, lane, or passageway to be a public nuisance and menace to health.

17 April 1906.  
§ 1. P. L. 193.

Procedure for vacation of alleys, etc., declared nuisances by health authorities.

Petition of property owners to court of quarter sessions.

Contents of petition.

Certificate.

17 April 1905.

Jury of view  
to be ap-  
pointed.Notice of  
meeting of  
viewers.View and  
inquiry.

Report.

Award of  
damages and  
benefits.Notice of re-  
port to parties  
interested.

Exceptions.

Reconsidera-  
tion of report.Filing of  
report.Appeal to  
court of com-  
mon pleas.Procedure on  
appeal.Confirmation  
of report.Application of  
act.

That thereupon the said court shall appoint a jury of view of six men, being duly qualified residents of the city or county where the proceedings are had.

2. The said jury, being duly sworn or affirmed to faithfully perform their duties, shall give notice to the abutting, contiguous, and adjacent property owners, or others that are likely to be affected by the proceedings, of the time and place of the first meeting, in such manner as the court may direct; and after the said first meeting, the jury shall proceed to view the premises, and inquire into and take testimony, in the manner usually pursued by juries of view in the opening of streets and the like; and then to present and file in the court of their appointment their report, in writing, of their findings and recommendations as to whether or not the said alley, lane, or passageway, or so much thereof as may be necessary, be vacated, and awarding the damages and assessing the benefits, if any, to the properties affected thereby; *Provided*, That after they shall have prepared their report, the jury shall give notice in writing to all the parties to be affected by the said report, at least ten days before the day therein named for its filing, that the same is open to inspection, at a place, within the said city or county, named therein; within which period any party or person aggrieved thereby shall have the right to file with the jury exceptions thereto; whereupon it shall be the duty of the said jury to proceed to reconsider their said report with the exceptions; and if the same or any part thereof are, in their opinion, in part or in whole, well founded, then it shall become their duty to modify their said report as justice may require; and thereupon file the same in the court of their appointment.

3. If, however, no exceptions be filed within the period of the notice, then it shall be the duty of the said jury, at the expiration of the said period, to forthwith file its said report in the court of their appointment; *Provided further*, That any party or person affected by the said report shall have, after the same is filed in the court aforesaid, the right to appeal to the court of common pleas of the city or county where the proceedings are had, within thirty days after the filing of the said report; whereupon the appeal shall, as to the parties thereto, proceed in the same manner as actions of trespass are now conducted. At the end of the period allowed for appeal, the said report shall be absolutely confirmed by the court aforesaid, as to such awards or assessment of benefits from which no appeals have been taken; *Provided*, That this act shall not apply in any case where the vacation of such alley, lane, or passageway shall wholly deprive any lot or lots of ground abutting thereon of the sole means of ingress or egress to or from such lot or lots, otherwise than to or from the front line or main line thereof; *And provided further*, That the provisions of this act shall



not apply to any lane, alley, or passageway created or existing by grant or contract, and not heretofore accepted by the public authority of the city, borough, or township in which the same may be located.<sup>1</sup>

<sup>1</sup> See the Act of March 21, 1905, P. L. 46, providing for the vacation of streets

and alleys unopened for period of thirty years; title "Streets."

## Annexation of Territory.

1. Annexation of city, borough or township to contiguous city. Petition of electors to court of quarter sessions. Plan. Affidavit.

2. Notice to executive of city. Consent of councils. Public notice of proposed annexation. Hearing by court. Election to be held. Date of election.

3. Form of notice. Ballots.

4. Mode of conducting election. Certificate of result.

5. Decree upon affirmative vote. Dissolution of petition. Proceedings on new petition.

6. Annexed territory to become part of city. Payment of existing indebtedness. Apportionment of indebtedness. Computation of indebtedness. Wards. Consolidation of councils.

1. Any city, borough, township, or part of a township, may become annexed to any contiguous city in the same county, in the following manner, namely:

There shall be presented to the court of quarter sessions of the county a petition, signed by at least five<sup>1</sup> per centum of the qualified voters, as shown by the registry lists for the last preceding general election of the city, borough, township, or part of a township, desiring annexation to a city under this act; and, in case such petition is for the annexation of a part of a township, there shall be a plan attached showing such portion, and the petition shall only be signed by qualified voters as above defined, and residing in such portion. The petition shall be subscribed by the petitioners within three months immediately preceding the presentation thereof to the court, and shall be verified by affidavit of one or more of the petitioners.

2. The petition shall be filed, and thereupon the court shall direct notice to be given to the chief executive officer of the city to which the annexation is proposed to be made; and it shall be the duty of the councils of such city, within three months from the date of said notice, to, by ordinance, consent to or disapprove the proposed annexation. If the councils disapprove, then there shall be no further proceedings under that petition; but if the councils approve, then the court shall direct such notice to be given the people of the territory proposed to be annexed as the court shall consider to be proper and reasonable, and the said notice shall state a reasonable date thereafter at which the petition will be considered and all parties heard.

Upon the date fixed for the hearing, or as soon thereafter as practicable, the court shall hear the case; and, if the requirements of this act have been complied with, then shall order an election to be held in the petitioning city, borough,

<sup>1</sup> The minimum percentage of petitioners reduced from twenty to five by

the amending Act of April 19, 1905, P. L. 216.

<sup>17</sup> April 1906.

<sup>28</sup> April 1908.  
§ 1. P. L. 533.

Annexation of city, borough or township to contiguous city. Petition of electors to court of quarter sessions.

Id. § 2.  
Notice to executive of city.

Consent of councils.

Public notice of proposed annexation.

Hearing by court.

Election to be held.

28 April 1903.

Date of election.

Id. § 3.

Form of notice.

Ballots.

Id. § 4.

Mode of conducting election.

Certificate of result.

Id. § 5.

Decree upon affirmative vote.

Dismissal of petition.

Proceedings on new petition.

Id. § 6.

Annexed territory to become part of city.

township or any part thereof, referred to in the petition, upon the question of annexation. If such order be made within three months and more than thirty days before the date of any general election, such election shall be held at such general election; otherwise, it shall be held at such date as the court shall fix, but in no case within thirty days from the making of such order.

3. The court shall direct that notice be given by advertisements or hand-bills, or both, of the time of such election; and shall also order the county commissioners to prepare separate ballots for such election, which shall read on the outside "Annexation" and on the inside "For Annexation" or "Against Annexation," and said commissioners shall provide for the placing of such ballots at the polling-places, at the opening of the polls on the day fixed, and for separate ballot-boxes to receive the ballots.

4. The election shall be held at the regular polling-places, and by the regular election officers, or, in case of their absence, their places shall be filled as provided by law. In receiving and counting, and in making returns of, the votes cast, the inspectors, judges and clerks of said election shall be governed by the laws of this commonwealth regulating municipal elections; and the vote shall be counted by the court as is now provided by general laws governing municipal elections, and all the penalties of the said election laws, for the violation thereof, shall apply to the voters, inspectors, judges and clerks voting at, and in attendance upon, the elections held under the provisions of this act. The result of the election shall be certified to the court of quarter sessions having jurisdiction of the proceedings.

5. If it shall appear by the vote when counted that a majority has voted for annexation, the court shall enter a decree accordingly; otherwise, the proceedings shall be dismissed. In case the proceedings shall be dismissed, no petitions from that city, borough, township, or part of a township, shall thereafter be presented unless signed by twenty per centum of the qualified voters thereof, as shown by the registry lists for the last preceding general election; and the court shall exercise its discretion as to allowing such petitions to be filed; *Provided, however,* That should the court permit such petition to be filed, no election shall be ordered to be held within two years from the date of the former election on such annexation. If in such case the court allows the petition to be filed, the proceedings shall be as herein provided for the first petition.

6. If a decree be entered for annexation, on the first Monday of January thereafter the territory so annexed shall become a part of the city to which it is annexed.<sup>1</sup> The ter-

<sup>1</sup> The annexed territory is to constitute part of the school district of the city, Act

June 24, 1895, P. L. 239; and of the poor district, Act June 24, 1895, P. L. 240.

ritory annexed shall pay its own floating and bonded indebtedness and the interest thereon, as said floating and bonded indebtedness exists at the time of annexation, and for that purpose an annual tax shall be levied by the city to which it is annexed, and which shall be levied upon the subjects of taxation in such annexed territory only. Such annexed territory shall not be liable for the floating or bonded indebtedness of the city to which it is annexed, as the same shall exist at the time of annexation; but the same shall be provided for, principal and interest, by an annual tax, to be levied by such city upon the subjects of taxation within its limits. In case of annexation, the court may appoint commissioners to ascertain the floating and bonded indebtedness of the territory annexed and of the city to which it is annexed. An account shall be taken of all moneys on hand or receivable, applicable to the payment of the floating or bonded indebtedness of the respective portions at the date of annexation, and such money shall be applied in payment of the floating or bonded indebtedness of the respective portions. The territory annexed shall, as soon as practicable, be arranged into wards of the city to which it is annexed.<sup>1</sup>

28 April 1903.

Payment of existing indebtedness.

Apportionment of indebtedness.

Computation of indebtedness.

Wards.

In the meantime, the councilmen of the city annexed shall become members of the proper branches of councils of the city; and the members of council of an annexed borough shall be members of the common councils of the city, and remain until the expiration of the terms for which they were elected, and until their successors are duly qualified under the arrangement of the territory into wards.<sup>2</sup>

Consolidation of councils.

<sup>1</sup> By Art. II. § 2, of the Act of May 23, 1889, P. L. 279-280, no ward is to be created or so divided as to contain less than three hundred taxable inhabitants.

<sup>2</sup> The above act, entitled "An Act for the annexation of any city, borough, township or part of a township to a contiguous city, and providing for the indebtedness of the same," is of broader application than Art. III. of the Act of May 23, 1889, P. L. 280 (which related exclusively to cities of the third class), whose various provisions and amendments it appears to have wholly superseded and supplied. A supplement to the Act of 1889, approved April 25, 1903, P. L. 312, relating to the adjustment of existing in-

debtedness, seems also to be covered by the act in the text.

The Act of May 8, 1895, P. L. 56, providing for the annexation of cities of the third class and boroughs or townships or parts of townships to cities of the second class contiguous thereto was repealed by the Act of April 14, 1897, P. L. 21.

The Act of April 20, 1905, P. L. 221, providing that where two cities are contiguous and in the same county, the smaller may be annexed to the larger (designed to effect the union of the cities of Allegheny and Pittsburgh), was declared unconstitutional by the supreme court in *Sample v. Pittsburgh*, 212 Pa. 533.

## Assessments.

1. City assessors to be elected. Qualifications. Terms of members. Existing boards to serve out terms.

2. To be sworn. Vacancies. To appoint assistant assessors. Compensation.

3. First and triennial assessments. Exempt property. How property to be valued. When assessment to be completed.

4. Notice to taxables of assessments. Appeals.

5. Councils to elect board of revision. How board to be constituted. Term. Oath. Vacancies. Board to be elected by limited vote. Quorum. New assessments, how to be

made. Revision and equalization of assessments. Exempt property, when to become liable to taxation. Appeals to be heard and determined. Notice to be given of increase of valuation.

6. Board may administer oaths. False statements to be perjury. Compensation of board. City clerk to be clerk of board. Board to have custody of tax books. When appeals to be completed. Appeal from decision of board to court of common pleas. Costs of appeal.

7. Appeals from assessments to court of common pleas. Petition to be filed by ap-

pellant. Contents of petition. Hearing of appeals. Powers of court to revise assessments. Costs. Appeal not to suspend collection of tax.

8. Appeals to supreme or superior court. Proviso.

9. Qualifications of city assessors. Offices of disqualified assessors to be declared vacant. How vacancies to be filled. Powers of assessors. Vacancies.

10. Oath.

11. Assistant assessors. How removable. Compensation of assessors and assistants to be fixed by councils.

12. Duties of assessors. Valuations. Description of properties assessed. Return of male inhabitants.

13. How properties to be assessed. Lands partly without city limits.

14. Assessment in years succeeding triennial assessment. Additions and deductions. Subdivision of ownership. Annexed territory. Transfers of ownership. Assessment of personal estate. Notice of omis-

sions or changes of valuation. Hearings.

15. Assessments for years omitted. Limitation. Assessments to be placed with city treasurer.

16. Books, maps, etc., to be procured. Transcription of duplicates. Power of assessors to administer oaths and require inventories. Revision of estimates.

17. Information required from city registry bureau. Registry to be sufficient description.

18. Completion of assessments. Correction of errors.

19. Hearings before board of revision and appeal. Notice of meetings to be given. Contents of notice. Appeals from decision of board. Hearings. Notice to non-residents.

20. How assessors to be removable. Vacancies, how filled. Responsibility for omissions.

21. Councils to pass ordinances on matters not provided for.

23 May 1889.  
Art. XV., § 1.  
P. L. 317.

City assessors  
to be elected.

Qualifications.

Terms of  
members.

Existing  
boards to  
serve out  
terms.

Id. § 2.

To be sworn.

Vacancies.

To appoint as-  
sistant as-  
sors.

Compensation.

Id. § 3.

First and tri-  
ennial as-  
sessment.

Exempt  
property.

1. The qualified electors of each of said cities of the third class shall, at the municipal election, elect three persons, residents of the city for at least five years previous to their election, qualified electors thereof and the owners of real estate therein, as a board of city assessors,<sup>1</sup> one of said persons to be elected to serve from the first Monday of April succeeding his election, for one year thereafter; one to be elected to serve for two years thereafter, and one to be elected to serve for three years thereafter. That annually thereafter at the municipal election there shall be elected one person as city assessor, to serve from the first Monday of April succeeding his election for three years thereafter. No two members of any board of city assessors shall be residents of the same ward; *Provided*, That members of boards of city assessors in office at the time of the passage of this act may serve until the expiration of the term for which they were elected.<sup>2</sup>

2. Each of the said assessors shall, before entering upon his duties, take and subscribe the oath herein prescribed for municipal officers, and file the same with the city clerk. Any vacancy happening in the board shall be filled by appointment by councils for the unexpired term. The said board may, during the first year of their term of service, and in every third year thereafter, appoint assistant assessors, not exceeding in number the number of wards of the city, to serve for a period not exceeding sixty days, who shall be removable at the pleasure of the board. The compensation of the members of the board and of the assistant assessors shall be fixed by ordinance of councils.

3. The said board of assessors shall, during the year of the triennial assessment for county purposes make, or cause to be made, a full, just and equal assessment of all property within the city subject by law to taxation for city purposes, and a just and perfect list of all property exempt by law from taxa-

<sup>1</sup> Assessors for county purposes are elected for three years, in cities of the third class, under the Act of May 9, 1889,

P. L. 139. See *Kuhlman v. Mayor of Lancaster*, 37 W. N. C. 127.

<sup>2</sup> The section amended as above by Act of May 16, 1901, § 30, P. L. 247.

tion, with a just valuation of the same, and shall also return with the assessments the dimensions or quantity of each lot or piece of land assessed, with the number and kind of improvements thereon; and every third year thereafter a similar assessment shall be made, and they shall in all cases value such property at such sums as the same would in their judgment bring at a fair public sale thereof. It shall be their duty during the years succeeding the year of the triennial assessment, upon the precept of the board of revision and appeal provided for by section three of this act, to make out and return a full, just and equal assessment as directed by said precept, and they shall complete their annual assessment on or before the first day of January in each year.<sup>1</sup>

<sup>23</sup> May 1895.  
Art. XV.

How property  
to be valued.

When assess-  
ment to be  
completed.

4. It shall be the duty of the said board of assessors to give at least five days' printed or written notice to every taxable inhabitant of the city of the amount or sum for which he stands rated in any triennial assessment, and also of any change in his assessment in any intervening year, together with the time and place of hearing appeals by the board of revision and appeal. Any person aggrieved by the action of the board of assessors may appeal therefrom to the board of revision and appeal hereinafter provided for.<sup>2</sup>

Id. § 4.

Notice to tax-  
ables of as-  
sessments.

Appeals.

5. The councils of such city, in joint convention, immediately after the passage of this act and thereafter on or before the first Monday of May in every third year, shall elect five resident citizens of such city, all or any number of whom may, in the discretion of councils, be chosen from among the members of select and common councils, who shall constitute a board of revision of taxes and appeals and shall serve for three years, or until their successors are elected, and they shall immediately after their appointment, be severally sworn to faithfully perform the duties pertaining to their office. Any vacancy occurring in said board by death, resignation or otherwise shall be filled by said councils for the unexpired term. No member of council shall vote for more than three members of said board of appeals, and the five persons receiving the highest number of votes shall be declared elected. Said board, a majority of whom shall constitute a quorum, may in any year other than a triennial year, if they shall deem a new assessment necessary, on or before the first day of September, issue their precept to the city assessors, requiring them to make out and return a full, just and equal assessment of property within the city, or such parts thereof as the said board of revision may deem advisable,<sup>3</sup> and they shall take and receive the triennial and yearly assessments as returned by the board of city assessors, and shall have power

Id. § 5.

Councils to  
elect board  
of revision.

How board to  
be constituted.

Term.

Oath.

Vacancies.

Board to be  
elected by  
limited vote.

Quorum.

New assess-  
ments, how  
to be made.

<sup>1</sup> So amended by Act of May 23, 1895, § 1, P. L. 118.

<sup>2</sup> See *infra*, § 5, 6. So amended by Act of May 23, 1895, § 2, P. L. 119.

<sup>3</sup> The provision of this section authoriz-

ing the board of revision to cause an assessment to be made in other than triennial years is not unconstitutional as a delegation of legislative power. *Jermyn v. Scranton*, 186 Pa. 595.

23 May 1889.  
Art. XV.

Revision and  
equalization of  
assessments.

Exempt prop-  
erty, when to  
become liable  
to taxation.

Appeals to be  
heard and  
determined.

Notice to be  
given of in-  
crease of  
valuation.

Board may ad-  
minister oaths.

False state-  
ments to be  
perjury.

Compensation  
of board.

City clerk to  
be clerk of  
board.

Board to have  
custody of tax  
books.

When appeals  
to be com-  
pleted.

and authority to revise, equalize or alter such assessments in any and every year by increasing or reducing the valuations, either in individual cases or by wards or parts of wards, and to add to the assessment books, and to the duplicates thereof in the hands of the city treasurer, any subject of taxation omitted therefrom, and any real estate in such city which has been exempt from taxation and ceased to be occupied and used for the purpose or purposes which entitled it to such exemption, as taxable for the portion of the year commencing at the time when the right to exemption ceases, and such real estate shall thereupon become subject to taxation at the tax rate fixed for the year for the proportionate part of the year during which it is not entitled to exemption, and it shall be their duty to rectify all errors and, when deemed necessary, they may require the attendance of the board of assessors and the assistant assessors, or any of them, or other citizens before them for examination on oath or affirmation, either singly or together, and they shall hear and determine all appeals by taxpayers from the assessments made by the city assessors, at such time and place as they may prescribe, at least five days' printed or written notice of which shall be given, as provided in section two of this act. It shall be the further duty of said board to give five days' written or printed notice to every taxable inhabitant of the city of any increase or addition to the valuation assessed against him by the board of city assessors, together with the time and place of hearing appeals therefrom.

6. For the purposes of all hearings and for all other purposes necessary to the discharge of their duties the said board shall have authority to administer oaths and affirmations touching any matter relating thereto, and any willful, false statement under oath as to any material fact by any complainant, or his agent or attorney, shall be deemed perjury and be punishable as such. The members of said board shall each receive such compensation as may be fixed by councils, not exceeding the sum of four dollars for each day actually employed in the performance of their duties. The city clerk shall serve as clerk of said board, for which services he shall receive such compensation as councils may fix, in addition to his salary. They shall procure and have the custody and control of all books relating to the assessment of city taxes, and keep them arranged according to wards and dates, and shall furnish the city assessors the necessary books for taking the assessments, which, upon the completion of such assessments, shall be returned to such board of revision of taxes and appeals. Said board shall complete their labors and the hearing and determination of all appeals on or before the first day of March in each year, after which the assessment shall be copied by wards into duplicates for the use of the city, and the assessment so corrected and copied shall be and remain

the lawful assessment for the purpose of city taxation until altered as provided by this act. The decision of said board shall be subject to an appeal to the court of common pleas of the county wherein such city is situated, in accordance with existing laws, whose decisions shall be final, and if the appeal to the courts shall be groundless the appellant shall pay all the costs of the appeal.<sup>1</sup>

7. Any owner of real estate or taxable property in this commonwealth who may feel aggrieved by the last or any future assessment or valuation of his real estate or taxable property, may appeal from the decision of the county commissioners, or board of revision and appeal, to the court of common pleas of the county within which such property is situated; and for that purpose may present to said court, or file in the prothonotary's office within sixty days after the county commissioners or board of revision and appeal have held the appeals provided for by law and acted on the said assessments and valuations, a petition signed by him, his agent or attorney, setting forth the facts of the case, and thereupon the said court shall proceed at the earliest convenient time, to be by them appointed, of which notice shall be given to the county commissioners of the proper county, or to the board of revision and appeal of the proper city, to hear the said appeal and the proofs in the case, and to make such orders and decrees touching the matter complained of as to the judges of said court may seem just and equitable, having due regard to the valuation and assessment made of other real estate in such county or city,<sup>2</sup> the costs of the appeal and hearing to be apportioned or paid as the court may direct; *Provided, however,* That the said appeal shall not prevent the collection of the taxes complained of, but in case the same shall be reduced, then the excess shall be returned to the person or persons who shall have paid the same.<sup>3</sup>

8. Any owner of real estate or taxable property in this commonwealth may appeal from the judgment, order or decree of any court of common pleas, in any matter affecting the assessment of taxes upon his property, to the supreme or superior court, in the same manner as appeals are taken in other cases to the said supreme or superior court; *Provided,*

<sup>1</sup> So amended by Act of May 23, 1895, § 3, P. L. 120. The Act of March 18, 1875, P. L. 15, Sections 1-5, authorizing the court of common pleas to appoint city assessors, and the classification of real estate for purposes of taxation in cities of the third class, was declared unconstitutional in *Scranton School District's App.*, 113 Pa. 176, because of the proviso making it operative upon the acceptance of its provisions by ordinance. Section 6 of the act, relating to the annexation of adjacent territory, has been supplied by later legislation.

<sup>2</sup> See, as to the duty of the court in determining the appeal, *Richter's App.*, 8

Pa. C. C. R. 119; *White v. Venango County*, 10 Dist. R. 482; *App. of Hamilton Heirs*, 14 Id. 655; *Drake v. Northampton County*, Id. 688.

<sup>3</sup> If the city does not attempt to collect the taxes pending the appeal, it will be presumed that it decided to await the judgment on the appeal before treating the taxpayer as delinquent, and if upon such judgment the latter tenders the amount owing by him, the penalty for non-payment of the tax cannot be exacted. *Ferguson v. Pittsburgh*, 159 Pa. 435. The act is constitutional as to its title. *Rockhill I. & C. Co. v. Fulton County*, 204 Pa. 44.

28 May 1889.  
Art. XV.

Appeal from  
decision of  
board to court  
of common  
pleas.

Costs of ap-  
peal.

19 April 1889.  
§ 1. P. L. 87.

Appeals from  
assessments to  
court of com-  
mon pleas.

Petition to be  
filed by ap-  
pellant.

Contents of  
petition.

Hearing of  
appeals.

Powers of  
court to revise  
assessments.

Costs.

Appeal not to  
suspend collec-  
tion of tax.

26 June 1901.  
§ 1. P. L. 601.

Appeals to su-  
preme or su-  
perior court.

Proviso.

26 June 1901. *however,* That the said appeal shall not prevent the collection of the taxes complained of; but in case the same shall be reduced, then the excess shall be returned to the person or persons who shall have paid the same.

29 March 1906.  
§ 1. P. L. 71.

9. All assessors in cities of the third class, elected in pursuance of article fifteen of an act, entitled "An act providing for the incorporation and government of cities of the third class," approved the twenty-third day of May, Anno Domini one thousand eight hundred and eighty-nine, and the amendments thereof, shall have been residents of the respective city for at least five years previous to their election, qualified electors thereof, and owners of real estate therein, at the time of their election and during their entire term of service, of the assessed value of at least five hundred dollars. Councils shall not permit any person elected assessor to enter upon the duties of said office, nor continue in office, when he does not have and possess all the qualifications aforesaid, and for this purpose they shall have the power, by a majority vote of all the members elected to each branch of councils, to declare the said office vacant at any time any person has not or ceases to have the qualifications aforesaid, for said office; and they may thereupon, in joint convention, fill the vacancy thus occasioned, in the manner hereinafter provided for the filling of vacancies. The said assessors shall have all the powers, and perform the same duties, as are prescribed in the aforesaid article, and acts of assembly to which this act is a supplement, except where herein is otherwise provided. They shall constitute a board of city assessors, and any vacancy occurring in said board shall be filled by councils, in joint convention, for the unexpired term.

*Qualifications of city assessors.*

*Offices of disqualified assessors to be declared vacant.*

*How vacancies to be filled.*

*Powers of assessors.*

*Vacancies.*

Id. § 2.

*Oath.*

Id. § 3.

*Assistant assessors.*

*How removable.*

*Compensation of assessors and assistants to be fixed by councils.*

10. Each of said assessors, before entering upon his duties, shall take and subscribe the oath prescribed by law to be taken by the municipal officers of the said cities, and file the same with the city clerk.

11. The said board may, during each triennial year and on intervening years, appoint such assistant assessors, to serve for such length of time, as councils may authorize, direct or appoint, either by resolution or ordinance; and such assistant assessors shall be removable at the pleasure of the board, and also by a vote of a majority of each branch of councils. The compensation or salary of the city assessors and of the assistant assessors shall be fixed by ordinance of councils, and shall not be decreased after their election or appointment; but nothing herein nor in the act to which this is a supplement shall prevent the increase thereof by ordinance.

Id. § 4.

*Duties of assessors.*

12. The board of assessors shall make or cause to be made, during the year of the triennial assessment for county purposes, a full, just, equal and impartial assessment of all property real, personal and mixed, and all matters and things



within the city, subject by law to taxation for city purposes, <sup>29 March 1905.</sup> and a just and perfect list of all property exempt by law from taxation, with a just valuation of the same. With <sup>Valuations.</sup> their assessments they shall return such dimension, description or quantity of each lot or parcel of land as will be sufficient to identify the same, together with the number and kind of improvements. In all cases they shall value the property at such sums as the same would, in their judgment, bring at a fair public sale thereof. And it shall be the further duty of said assessors to return, annually, a <sup>Description of properties assessed.</sup> list of all the male inhabitants over twenty-one years of age. <sup>Return of male inhabitants.</sup>

13. The said city assessors may assess real estate in the name or names of the registered owner, actual owner (legal or equitable), reputed owner, owner of the life estate, occupier, vendor or vendee; any person who has or had any connection with the legal title thereof, or an interest in the premises, or has charge or control thereof; in the name of the husband when lands are owned by the wife; partnership property, in the name of the partnership, or in the name of the partners or of any of them; trust property, in the name of the trustee or trustees, or of any of them, or in the name of the cestui que trust; property of a minor, in the name of the minor or his guardian; property of a lunatic, in the name of the lunatic or his committee; and property formerly belonging to a person since deceased may be assessed in the name of the decedent, or in the name of the estate of said decedent, or of his administrator or administrators, executor or executors, or his heirs generally, or in the name of any administrator, executor or heir; and in assessing the same in the names of the executors, administrators or heirs, it shall not be necessary to designate them by their christian or surnames; and other property, not herein provided for, may be assessed in the manner the same is assessed for county taxation; but this provision shall not prevent the collection, under existing laws, of any tax assessed against property by a sufficient designation or description, where the same has been assessed in the name of any person or persons who are not the owners thereof; and where lands of owners are part within and part without the city limits, they shall be assessed in the same manner and within the same jurisdiction as if the same were being assessed for county purposes. <sup>Id. § 5.</sup> <sup>How properties to be assessed.</sup> <sup>Lands partly without city limits.</sup>

14. On the years succeeding the triennial assessment, the said assessors shall perform the following duties with reference to the assessment of real estate, viz.: (a) They shall assess any real estate, in the manner aforesaid, which has been omitted, and correct any errors which may have been made in making the triennial assessment; (b) add to the assessment any property which has ceased to be exempt; (c) add to the value of any real estate the value of any new <sup>Id. § 6.</sup> <sup>Assessment in years succeeding triennial assessment.</sup> <sup>Additions and deductions.</sup>

- 29 March 1906.** building or new or other new improvements; (d) deduct from the value of any real estate any depreciation caused by destruction, injury, or otherwise, howsoever; (e) where
- Subdivision of ownership.** of tracts, as assessed at the triennial assessment, have been subdivided, they shall equalize and apportion the assessment of the lands thus subdivided, upon the basis of the value as fixed at the triennial assessments, upon the whole lot or tract; (f) where any borough, township, part of borough or township, or any tract or tracts of land, have been added to the city since the last triennial assessment, to make a full, just and impartial assessment of the property in the annexed district, and return the same in a like manner as if it were a triennial assessment; (g) when any property has been transferred, to make the proper changes or transfers upon the proper assessment-books and duplicates; (h) to perform such other duties as may be prescribed by ordinance, necessary to the making of proper assessments or valuations. And to perform the following duties as to the assessment of the personal estate and other matters and subjects of taxation, viz.: (a) To assess any personal property or subjects of taxation omitted at the triennial assessment, and to add such additional personal estate and subjects of taxation as the person assessed may have acquired since the triennial assessment; (b) to make deductions, where such property has been disposed of; (c) to reduce valuations, when property has been depreciated, lost or destroyed. But when any real estate is assessed which had been omitted, errors corrected, or any increase is made in valuations or by additions, for any cause, after the triennial assessment, or where valuations have been made upon subdivisions of any lot or tract, such assessments shall not be considered final or conclusive without first giving to the person or party affected thereby at least five days' notice of a time and place where such person or party may be heard by the board of assessors.
- Annexed territory.**
- Transfers of ownership.**
- Assessment of personal estate.**
- Notice of omissions or changes of valuation.**
- Hearings.**
- Id. § 7.** 15. When the said assessors ascertain that any property is omitted, they shall assess the same for the omitted years, but not back further than and including the last preceding year of the triennial assessment; and the person or party owning said omitted real estate shall be liable for the tax against the said lands for the omitted year, or years, at the tax rate levied during the omitted year, and the proper authorities shall make out the proper tax and place the amount thereof in the hands of the city treasurer for collection.
- Assessments for years omitted.**
- Limitation.**
- Assessments to be placed with city treasurer.**
- Id. § 8.** 16. The said assessors shall have the right to procure such books, maps, et cetera, as may be necessary to the performance of their duties; and, when authorized by councils, may employ clerks, for the purpose of transcribing and making duplicates and assessment books. They, and each of them, shall have power to administer oaths, and to require, under oath, of every taxable or person in charge or control of any
- Books, maps, etc., to be procured.**
- Transcription of duplicates.**
- Power of assessors to administer oaths and require inventories.**

property, an inventory of his taxable property, with his estimation of the just, full, fair and impartial value thereof, and which, in his judgment, the same would bring at a fair public sale thereof. Such estimation shall not be conclusive, but shall be subject to revision by increase, decrease, or equalization with other property.

29 March 1908.

Revision of estimates.

17. Where any city has established a registry of real estate, in pursuance of the act to which this is a supplement, the said assessors shall have the right to obtain from said department such information as to the registered owners of real estate as said department is able to furnish, and under such rules and regulations as shall be established by ordinance of councils; and it shall be a sufficient description of any real estate in any assessment-books or duplicates to designate the same by such city lot number, other number, or such other designation as the same shall appear in the registry department.

Id. § 9.

Information required from city registry bureau.

Registry to be sufficient description.

18. The said board of assessors shall complete their triennial assessment, and the annual assessments in intervening years, on or before the first day of January in each year; and they shall have power to add to the duplicates, in the hands of the city treasurer, any subject of taxation omitted therefrom, and to rectify any and all errors and mistakes made therein.

Id. § 10.

Completion of assessments.

Correction of errors.

19. When the time or times and place for the meeting or meetings of the board of revision and appeal shall have been fixed, in years of triennial assessment, or in other years, it shall be the duty of said board of city assessors to give, or cause to be given, at least five days' printed or written notice to each and every taxable inhabitant of the city, resident therein, if he, she or they can be found, of the amount or sum for which he, she or they stand rated, in any triennial assessment; and, also, of any sum or amount for which said persons stand rated, by reason of any change in his, her or their assessment, in any intervening year, by reason of any cause whatsoever, together with the time and place of hearing appeals of said board of revision and appeal; and any person dissatisfied or aggrieved by the assessment made by the board of assessors, may appeal to the said board of revision and appeal, and be heard at the time fixed in the notice, to be served as aforesaid. In case the property owner is not found, the notice above provided for may be served upon any tenant or other occupant of the premises.

Id. § 11.

Hearings before board of revision and appeal.

Notice of meetings to be given.

Contents of notice.

Appeals from decision of board.

Hearings.

Notice to non-residents.

20. Any assessor may be removed from office by a vote of two-thirds of all the members elected to each branch of councils, and the vacancy thus occasioned may be filled in the manner hereinbefore provided; and any assessor or assessors who wilfully omit, neglect or refuse to assess any property liable to taxation, shall be held responsible to the proper city for any loss or damage caused thereby.

Id. § 12.

How assessors to be removable.

Vacancies, how filled.

Responsibility for omissions.

29 March 1905.  
§ 12.

Councils to  
pass ordinances  
on matters not  
provided for.

21. The councils of each of the said cities of the third class shall have authority to pass such ordinances as they may deem proper and necessary, providing for and regulating the manner of making the aforesaid assessments, valuations and transfers, and the taking of appeals to the board of revision and appeal, and regulating proceedings before said board on any and all matters not specifically provided for in this act, and all acts to which this is a supplement, and not inconsistent herewith.

## Automobiles.

1. Motor vehicles to be licensed by state highway department.

2. Applications. Age of applicant.

3. Applications to be registered. Tags to be furnished. Description. Fee for license.

4. Contents of license. License number to be posted on vehicle. State license number only to be carried.

5. Limit of speed in cities and boroughs. Outside corporate limits. Township authorities may fix limit of speed in certain sections. Signs to be put up. Reasonable speed to be observed.

6. Tags to be displayed on vehicles. When number to be lighted. Lighted lamps to be carried at night. Red light in rear. Brakes and signals. Signals to be sounded at cross-

ings. Right of way. When to stop upon signal.

7. License to be carried. When to be exhibited. Term of license.

8. Arrest upon view for violation of act. Motor vehicle to be held in default of bail. Disposition of vehicle.

9. Civil actions for damages, how brought. Service of process.

10. Penalty for violation of act. Imprisonment in default of payment. Second or subsequent conviction to be misdemeanor. Penalty. Imprisonment in default of payment. License to be revoked. Limitation of reissue.

11. Appropriation of fines.

12. When act to be inapplicable.

13. When to take effect.

19 April 1905.  
§ 1. P. L. 217.

Motor vehicles  
to be licensed  
by state high-  
way depart-  
ment.

Id. § 2.

Applications.

Age of appli-  
cant.

Id. § 3.

Applications  
to be regis-  
tered.

Tags to be  
furnished.

Description.

Fee for  
license.

Id. § 4.

Contents of  
license.

1. No motor-vehicle, whether propelled by steam, gas or electricity, shall be operated or driven upon any public street or public highway in any city, borough, county or township in this commonwealth until the operator thereof shall have procured a license from the state highway department of this commonwealth,<sup>1</sup> as hereinafter provided.

2. Every applicant for a license shall set forth, in writing, verified by oath or affirmation, the name and residence of the applicant. No license shall be issued to any person who is under eighteen years of age.

3. It shall be the duty of the state highway department to enter every such application in a book to be kept for that purpose, and, if all the requirements of section two of this act have been complied with, to issue a license to the applicant, and to furnish therewith two tags, containing the license number, not less than five inches in height, and the number of the year; for such license the applicant shall pay the sum of three dollars, which sum shall be appropriated to the use of the said state highway department.

4. Every such license issued shall contain the name of the licensee, the date of license, and the number of the license under which the said vehicle is licensed, together with the number of the book and page in which the same is entered. The license shall not be effective until the license number is posted in a conspicuous place, both in back and front of the said vehicle. Not more than one state license number shall

<sup>1</sup> The state highway department was established by the Act of May 1, 1905, P.

L. 318. Its office is kept in the state buildings at Harrisburg.

be carried upon the front and back of the said vehicle while operated or used on any of the public streets or public highways, as aforesaid; and a license number obtained in any other place or State shall be removed from said vehicle while the vehicle is being used within this commonwealth.

19 April 1906.

License number to be posted on vehicle.  
State license number only to be carried.

5. No person or persons shall be allowed to use, operate or drive any motor-vehicle, as aforesaid, upon any of the public streets or public highways of the cities, boroughs, counties or townships of this commonwealth at a speed greater than a mile in six minutes, within the corporate limits of any of the cities and boroughs thereof; outside of the corporate limits of any city or borough, as aforesaid, the lawful rate of speed shall not exceed one mile in three minutes; *Provided*, That in townships of the first class the commissioners thereof may, by ordinance, fix a speed rate of not less than one mile in six minutes, in such sections of said township as they may deem such rate necessary for public safety; *Provided, however*, In the sections where such speed limit is fixed, the commissioners shall cause signs to be placed at distances of not over one-half mile apart, which signs shall be readable from the highways, and shall set forth the speed limit and the penalty for the violation thereof; *Provided further*, That this section shall not permit any person or persons to drive an automobile at a greater speed than is reasonable, regarding traffic, danger, or injury to property or person, at any time or at any place.

Id. § 5.

Limit of speed in cities and boroughs.

Outside corporate limits.

Township authorities may fix limit of speed in certain sections.

Signs to be put up.

Reasonable speed to be observed.

6. Any person using or operating a motor-vehicle upon the public streets or public highways, as aforesaid, shall have displayed in a conspicuous place on the front and back of said vehicle, the tags furnished by the state highway department, accompanying his license for that year; and one hour after sunset he shall have the number in the back of the machine sufficiently lighted, so as to be plainly distinguishable. Every such motor-vehicle shall carry, during the period from one hour after sunset to one hour before sunrise, at least one fixed lighted lamp, showing a white light, visible at least one hundred feet in the direction towards which the vehicle is proceeding, and shall also exhibit one red light, visible in the reverse direction. Every motor-vehicle shall also be provided with good and sufficient brake or brakes, and shall also be provided with bell, horns or other signal device. Every operator or user thereof shall sound the gong or other alarm when approaching a street crossing or road crossing; and shall have no more right of way, or preference as to the use of such street or road, than the driver of a vehicle about to be passed, but shall stop the motor-vehicle when signaled to do so by the driver of any horse or other animal, until the animal or animals have passed or have been passed by said motor-vehicle.

Id. § 6.

Tags to be displayed on vehicles.

When number to be lighted.

Lighted lamps to be carried at night.

Red light in rear.

Brakes and signals.

Signals to be sounded at crossings.

Right of way.

When to stop upon signal.

7. Every person so licensed shall carry with him, when

Id. § 7.

19 April 1905.

License to  
be carried.When to be  
exhibited.Term of  
license.

using or operating such motor-vehicle upon the public streets or the public highways aforesaid, his license, and when so required by any constable or police officer of this commonwealth shall produce the license for inspection. No license issued shall be valid for a longer period than one year. It may be issued on the first day of January, or at any time thereafter, but shall expire on the thirty-first day of December next ensuing.

Id. § 8.

Arrest upon  
view for viola-  
tion of act.Motor vehicle  
to be held in  
default of bail.Disposition of  
vehicle.

Id. § 9.

Civil actions  
for damages,  
how brought.Service of  
process.

Id. § 10.

Penalty for  
violation of  
act.Imprisonment  
in default of  
payment.Second or sub-  
sequent convic-  
tion to be mis-  
demeanor.

Penalty.

Imprisonment  
in default of  
payment.License to be  
revoked.Limitation of  
re-issue.

8. The constables and police officers of the cities, boroughs and townships of this commonwealth may arrest, upon view and without warrant, any person or persons violating any of the provisions of this act; *Provided*, That in the event of an arrest for violation of any of the provisions of this act, if the defendant is unable to give sufficient bail for a hearing or for his appearance at court, the magistrate before whom he is first taken shall, in lieu of such bail, hold in custody the motor-vehicle found in possession of the defendant; and the court, after the trial of the defendant, if no sufficient bail according to law has been given in the meantime, shall make such order as to the disposition of such motor-vehicle as to it shall seem just and proper.

9. All civil actions for damages arising from the use and operation of any motor-vehicle, as aforesaid, may be brought in the city or county in which the alleged damages were sustained, and service of process may be made by the sheriff in person, or by his deputy, in any part of this commonwealth, in like manner as process may now be served in the proper county.

10. Any person violating any of the provisions of this act shall be subject to a fine or penalty of not less than ten dollars nor more than twenty-five dollars, to be collected by summary conviction before any magistrate or justice of the peace, as like fines and penalties are now by law collectible; or, in case of non-payment of the fine within forty-eight hours, to undergo an imprisonment in the county jail for a period not exceeding ten days. Any person or persons who, having been previously convicted before a magistrate or justice of the peace of this commonwealth of any violation of the provisions of this act, upon commission of the second or a subsequent offense shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than twenty-five dollars nor more than one hundred dollars; or, in case of non-payment of such fine, to undergo an imprisonment in the county jail for a period not exceeding thirty days. Upon conviction of a second violation of the provisions of the act, certified to the state highway commissioner, the license issued to such person, so convicted, shall immediately be revoked by the state highway commissioner, and shall not be reissued for the space of six months after such revocation.

11. All fines and penalties collected under the provisions of this act shall be paid to the city, borough or township treasurer, wherein the offense is committed, and the same shall be expended by said city, borough or township for the benefit of the public roads. <sup>19 April 1905. § 11.</sup> <sup>Appropriation of fines.</sup>

12. This act shall not apply to any race-course or private road, nor to any passenger railway or steam railroad confined to tracks, nor to steam or other street-rollers, nor to any of the motor-vehicles which any manufacturer or vendor of automobiles may have in stock for sale, and not for hire or for his private use. <sup>Id. § 12.</sup> <sup>When act to be inapplicable.</sup>

13. This act shall take effect on the first day of January, Anno Domini one thousand nine hundred and six.<sup>1</sup> <sup>Id. § 13.</sup> <sup>When to take effect.</sup>

<sup>1</sup>Section 14 repeals all inconsistent acts. The only act previously passed on the subject was that of April 23, 1903, P. L. 268, the subject matter of which is

entirely covered by the act in the text. The former remained in force up to January 1, 1906.

## Bicycles.

1. Rights and restrictions of use of bicycles, etc., defined.

1. Bicycles, tricycles and all vehicles propelled by hand or foot, and all persons by whom bicycles, tricycles and such other vehicles are used, ridden or propelled upon the public highways of this State shall be entitled to the same rights, and subject to the same restrictions in the use thereof, as are prescribed by law in the cases of persons using carriages drawn by horses.<sup>1</sup> <sup>23 April 1899. § 1. P. L. 44.</sup> <sup>Rights and restrictions of use of bicycles, etc., defined.</sup>

<sup>1</sup>A bicycle is a two-wheel carriage within the meaning of the acts authorizing the collection of tolls from vehicles on turnpikes. *Geiger v. Turnpike Road Co.*, 167 Pa. 582; and its operation upon public sidewalks is within the prohibition of the Act of May 7, 1889, P. L. 110, punishing by fine the riding or driving of any horse or other animal upon the same. *Commonwealth v. Forrest*, 170 Id. 40. The propulsion of bicycles is governed by the rules of the road applicable to vehicles.

*Taylor v. Union Traction Co.*, 6 Dist. R. 365; 184 Pa. 465. *Commonwealth v. Dooley*, 6 Dist. R. 381. *Rowland v. Wanamaker*, 20 Pa. C. C. R. 621; 7 Dist. R. 249, and see *Ordway v. Cornelius*, 23 Pa. C. C. R. 281. The Act of April 11, 1899, P. L. 36, providing for the construction of sidepaths along the public highways in townships for the use of bicycles and pedestrians and for levying a tax upon bicycles for such purpose, is unconstitutional. *Porter v. Shields*, 200 Pa. 241.

## Board of Health.

[See ALLEYS—CONTAGIOUS AND INFECTIOUS DISEASES—REGISTRATION OF MARRIAGES, BIRTHS AND DEATHS.]

### I. CREATION OF BOARDS BY ORDINANCE.

1. Board may be created.
2. Membership. Qualifications. Term of service. Mayor to appoint. Removals. Terms of first appointees.
3. Members to be sworn. Organization. Secretary and health officer. Salaries. Bonds. Oath. Fees to be paid into city treasury. President and secretary to administer oaths.
4. Rules and regulations. Powers and duties of board as to infectious diseases, etc. May establish hospitals. Physicians and sanitary agents. Physicians to report cases of contagious diseases.
5. Powers as to abatement of nuisances. Execution of orders of board. Costs, how recoverable. Costs to be lien.
6. Licenses to plumbers, etc. Board of

examiners to be appointed. Register to be kept.

7. Examination fees. Compensation of board.

8. Penalty for violation of act. How recoverable.

9. Registration of marriages, births and deaths. General rules and regulations. Penalties, etc., to be paid into city treasury.

10. Annual estimates to be submitted to councils. Appropriations. Annual reports. Copies to be sent to state board.

### II. HOUSE DRAINAGE AND CESS-POOLS.

11. Boards to adopt rules and regulations for house drainage, etc. And provide for registration of plumbers. Where act not to apply.

12. Penalty for violation of regulations.

## I. Creation of Boards by Ordinance.

23 May 1889.  
Art. XI., § 1.  
P. L. 306.

Board may be  
created.

Id. § 2.

Membership.

Qualifications.

Term of ser-  
vice.

Mayor to ap-  
point.

Removals.

Terms of first  
appointees.

Id. § 3.

Members to  
be sworn.

Organization.

Secretary and  
health officer.

Salaries.

Bonds.

Oath.

Fees to be  
paid into city  
treasury.

President and  
secretary to  
administer  
oaths.

1. The councils of any city of the third class may, by ordinance, create a board of health as herein provided, with the powers and duties herein enumerated.<sup>1</sup>

2. The said board shall consist of five members, who shall serve without compensation, and none of whom shall be members of councils. At least two of their number shall be reputable physicians of not less than two years' experience in the practice of their profession. The board shall be appointed by districts to be fixed by councils, representing as equally as may be all portions of the city, and shall serve for the term of five years from the first Monday of April succeeding their appointment. The mayor shall nominate, and by and with the consent of the select council appoint the members of said board, and shall in like manner remove any or all of them for official misconduct or neglect of duty, and fill all vacancies for the unexpired term. At the first appointment the mayor shall designate one of the members to serve for one year, one to serve for two years, one to serve for three years, one to serve for four years, and one to serve for five years, and thereafter one member of said board shall be appointed annually to serve for the term of five years.

3. The members of the board shall severally take and subscribe the oath herein prescribed for city officers, and shall annually organize by the choice of one of their number as president. They shall elect a secretary, not of their body, who shall keep the minutes of their proceedings and perform such other duties as may be directed by the board, and a health officer, who shall execute the orders of the board, and for that purpose the said health officer shall have and exercise the powers and authority of a policeman of the city. The secretary and health officer shall receive such salary as may be fixed by the board,<sup>2</sup> and shall hold their offices during the pleasure of the board. They shall severally give bond to the city in such sums as may be fixed by ordinance, for the faithful discharge of their duties, and shall also take and subscribe the oath required of members of the board. All fees which shall be collected or received by the board, or by any officer thereof, in his official capacity, shall be paid over into the city treasury monthly, together with all penalties which shall be recovered for the violation of any regulation of the board. The president and secretary shall have full power to administer oaths or affirmations in any proceeding or investigation touching the regulations of the board, but shall not be entitled to receive any fee therefor.

<sup>1</sup> See, as to the relations to the Municipal Act of 1874 of boards previously created, *Board of Health v. Harrisburg*, 2 Pearson 242, and as to repeal of local acts creating health boards by subsequent general acts, *Quinn v. Cumberland County*, 162 Pa. 55.

<sup>2</sup> The board has no power to fix the salary of the health officer in excess of the appropriation made by councils therefor. *Watt v. Altoona*, 23 Pa. C. C. R. 410; 9 Dist. R. 235.



4. The said board of health shall have power, and it shall be their duty, to make and enforce all needful rules and regulations to prevent the introduction and spread of infectious or contagious diseases,<sup>1</sup> by the regulation of intercourse with infected places, by the arrest, separation and treatment of infected persons, and persons who shall have been exposed to any infectious or contagious disease,<sup>2</sup> and by abating and removing all nuisances which they shall deem prejudicial to the public health,<sup>3</sup> to enforce vaccination, to mark infected houses or places, to prescribe rules for the construction and maintenance of house drains, waste and soil pipes and cess-pools, and to make all such other regulations as they shall deem necessary for the preservation of the public health.<sup>4</sup> They shall also have power, with the consent of councils, in case of the prevalence or apprehended prevalence of any contagious or infectious disease within the city, to establish one or more hospitals, and to make provision and regulations for the management of the same. The board may in such cases appoint as many ward or district physicians and other sanitary agents as they may deem necessary, whose salaries shall be fixed by the board before their appointment. It shall be the duty of all physicians practicing within the city to report to the secretary of the said board of health the names and residences of all persons coming under their professional care afflicted with such contagious or infectious diseases, in the manner directed by the said board.

<sup>23</sup> May 1889.  
Art. XI., § 4.

Rules and  
regulations.

Powers and  
duties of board  
as to infectious  
diseases, etc.

May establish  
hospitals.

Physicians and  
sanitary agents.

Physicians to  
report cases of  
contagious  
diseases.

5. The said board of health shall have power, as a body or by committee, as well as the health officer, together with his subordinates, assistants and workmen, under and by order of said board, to enter at any time upon any premises in the city upon which there is suspected to be any infectious or contagious disease, or nuisance detrimental to the public health, for the purpose of examining and abating the same; and all written orders for the removal of nuisances issued to the said health officer by order of said board, attested by the secretary, shall be executed by him and his subordinates and workmen, and the costs and expenses thereof shall be recoverable from the owner or owners of the premises from which the nuisance shall be removed, or from any person or persons causing or

Id. § 5.

Powers as to  
abatement of  
nuisances.

Execution of  
orders of  
board.

Costs, how  
recoverable.

<sup>1</sup> By the Act of April 14, 1903, P. L. 172, § 3, the system of disinfection of school houses, etc., in cities, adopted by school directors or trustees, is made subject to the approval of the local board of health.

<sup>2</sup> See *Eddy v. Board of Health*, 10 Phila. R. 94. As to the liability of a municipality to provide for the maintenance of persons quarantined under the direction of the board of health, see *Zellner v. Allentown*, 5 Dist. R. 547; 18 Pa. C. C. R. 162; *Beaver County Commissioners*, 14 Dist. R. 491; *Borger v. Alliance Boro.*, 28 Super. Ct. R. 407.

<sup>3</sup> A pig sty in a city is a nuisance *per se*, *Commonwealth v. Van Sickle*, Bright.

R. 69; even if located in the rural districts thereof. *Commonwealth v. Huts*, Id. 75, note. See, also, *Commonwealth v. Armstrong*, 24 Pa. C. C. R. 442.

<sup>4</sup> The board may require a reasonable license fee from persons engaging in the business of removing garbage. *Meadville v. Bradby*, 22 Pa. C. C. R. 163. See the Act of May 19, 1897, P. L. 77, regulating the erection and operation of bone boiling establishments and depositories of dead animals, requiring the same to be conducted and maintained by permission and under the supervision of the local boards of health in cities and boroughs, and of the state board of health in townships.

28 May 1889.  
Art. XI.

Costs to be  
lien.

maintaining the same, in the manner herein provided;<sup>1</sup> and the amount of the cost and expense thereof shall also be a lien upon the premises which has caused, or from which the nuisance shall be removed, from the time of the commencement of the work, which date shall be fixed by certificate of the health officer, filed with the city clerk, and said lien may be filed and proceeded in as herein provided in the case of municipal liens.<sup>2</sup>

Licenses to  
plumbers, etc.

Board of ex-  
aminers to be  
appointed.

Register to  
be kept.

6. It shall, furthermore, be the duty of said board of health to make suitable rules and regulations, providing for the granting of licenses and permits to firms, corporations, master plumbers, and journeymen, authorizing them to carry on the business of plumbing or house drainage in said city; and said board of health, in connection herewith, shall appoint a board of examiners, to consist of three competent persons, who shall examine all applicants for license, and, if after proper examination made by such board of examiners, the firm, corporation, master plumber, or journeyman plumber making application for a license or permit, in accordance with such rules, shall be found competent, the same shall be certified to the board of health, which shall thereupon issue a license or permit to such firm, corporation, master plumber or journeyman plumber, which shall entitle him or them to carry on said business or work in said city; and a register of all such applicants and the certificates so issued shall be kept by said board of health, which said register shall be open to the inspection of all persons interested therein. An examination of any one member of a firm, or the proper officer of said corporation, or the superintendent or foreman to be in charge of said business for a firm or corporation, shall be deemed sufficient.

Examination  
fees.

Compensation  
of board.

7. Said firm, corporation or master plumber, engaged or engaging in the business or work of plumbing or house drainage, shall pay for each examination the sum of five dollars, and each journeyman shall pay the sum of fifty cents, which sum shall be paid into the city treasury for the use of said cities. The proper officers of said cities are hereby authorized to pay the person acting on said board the sum of four dollars per day, for each day or session actually employed, out of the funds in the treasury of said cities not otherwise appropriated. The license granted under the provisions of this act may be revoked by said board of health when any firm, corporation, master plumber or journeyman plumber, superintendent or foreman, shall be deemed incompetent, or for any other reasonable cause; but said firm, corporation, master plumber or journeyman plumber shall be entitled to an additional examination upon the payment of the fee provided in this act.

<sup>1</sup> The remainder of this section amended as it follows by Act of May 16, 1901, § 27, P. L. 243.

<sup>2</sup> The Act of April 23, 1889, P. L. 48, authorizing writs of *scire facias* and *levari facias* to be issued upon liens filed for work done, or materials furnished by

the board of health or any municipal corporation where no process is provided for the collection of the debt, charge or assessment upon which such liens have been filed, was repealed by the Act of June 4, 1901, § 42, P. L. 386.

8. Any firm, corporation, master plumber or journeyman plumber, violating the provisions of this act, or any of them, shall be liable to a fine of not less than ten dollars nor exceeding fifty dollars, for each and every day he or they shall engage in and conduct said business without having said license or permit. Such fine shall be recoverable before any alderman or police magistrate in said cities by summary proceedings, and shall be sued for in the name of such cities, and when collected shall be paid into the treasury thereof.

28 May 1889.  
Art. XI.

Penalty for  
violation of  
act.

How recover-  
able.

9. The said board of health shall have power to create and maintain a complete and accurate system for the registration of all marriages, births and deaths which may occur within the city, and to compel obedience to the same upon the part of all physicians and other medical practitioners, clergymen, magistrates, undertakers, sextons and all other persons from whom information for such purposes may properly be required. The board shall make and cause to be published, all necessary rules and regulations for carrying into effect the powers and functions with which they are hereby invested, which rules and regulations, when approved by the mayor, shall have the force of ordinances of the city, and all penalties for the violation thereof, as well as expenses necessarily incurred in carrying the same into effect, shall be recoverable for the use of the city, in the same manner as penalties for the violation of city ordinances, subject to the like limitation as to the amount thereof.

Id. § 6.

Registration of  
marriages,  
births and  
deaths.

General rules  
and regula-  
tions.

Penalties, etc.,  
to be paid into  
city treasury.

10. It shall be the duty of the board of health to submit annually to councils before the commencement of the fiscal year, an estimate of the probable receipts and expenditures of the board during the ensuing year, and councils shall then proceed to make such appropriation thereto as they shall deem necessary; and the said board shall, in the month of January of each year, submit a report in writing to councils of its operations for the preceding year, with the necessary statistics thereof, together with such other information or suggestions relative to the sanitary condition and requirements of the city as it may deem proper, and councils shall publish the same in their official journal. It shall also be the duty of the board to communicate to the state board of health copies of all its reports and publications, together with such sanitary information as may from time to time be required by said state board.<sup>1</sup>

Id. § 7.

Annual esti-  
mates to be  
submitted to  
councils.

Appropri-  
ations.

Annual re-  
ports.

Copies to be  
sent to state  
board.

<sup>1</sup> See the Act of April 27, 1905, P. L. 312, creating a state department of health, and defining its powers and duties. The board is vested with full authority to enforce state sanitation measures, and to abate nuisances. By section 16, copies of its rules and regulations are to be communicated to local boards of

health, school boards and clerks of councils of cities and boroughs. The board appears to be clothed with all the powers conferred by law upon local boards of health, its relations toward which seem to be controlling. At all events, the rules of the local boards must conform to its requirements.

## II. House Drainage and Cesspools.

24 June 1886.  
§ 1. P. L. 232.

Boards to  
adopt rules  
and regula-  
tions for house  
drainage, etc.

And provide  
for registra-  
tion of  
plumbers.

Where act not  
to apply.

Id. § 2.

Penalty for  
violation of  
regulations.

11. From and after the passage of this act, the boards of health in cities and boroughs of this commonwealth shall be and they are hereby authorized and directed to adopt and promulgate suitable rules and regulations<sup>1</sup> for the construction of house drainage and cesspools, and to provide for the registration of journeymen and master plumbers, and persons engaged in the plumbing business in cities and boroughs; *Provided*, That the provisions of this act shall not apply to boroughs having no system of water supply or system of sewage.

12. Any person who shall refuse or neglect to comply with the requirements of said rules and regulations when promulgated, shall be guilty of a misdemeanor, and on conviction be sentenced to pay a fine of not more than one hundred dollars, or undergo an imprisonment not exceeding one year, or both, in the discretion of the court.

<sup>1</sup> A license fee imposed upon night-soil-men is not properly a tax, but a matter of police regulation; a rule of the board

requiring such license is constitutional. *Meadville v. Hummel*, 5 Dist. R. 780.

## Bonds.

[See INDEBTEDNESS.]

1. Municipal bonds to be taxable for state purposes.

2. Bonds payable to bearer may be ex-

changed for registered bonds. How to be transferable. Interest certificates may be issued.

9 April 1873.  
§ 1. P. L. 68.

Municipal  
bonds to be  
taxable for  
state purposes.

1. That all laws and acts of assembly exempting the loans, bonds, or other evidences of indebtedness of, or issued by any county, city, borough or incorporated district of the commonwealth, from the payment of taxes for the use of the commonwealth, be and the same are hereby repealed, so far as provides for such exemption; and all such loans, bonds or other evidences of indebtedness heretofore or hereafter issued or existing, shall be liable for the payment of the taxes now or hereafter imposed by law for the use of the commonwealth upon public loans or other moneys bearing interest; *Provided*, That this act shall not apply to any bonds negotiated into the hands of innocent holders.<sup>1</sup>

2 May 1879.  
§ 1. P. L. 47.

Bonds payable  
to bearer may  
be exchanged  
for registered  
bonds.

2. Bonds which have been or which may be issued by the state of Pennsylvania, or by any county, city, municipal authority or corporation therein, payable to bearer, may at the option and at the expense of the holder thereof be returned

<sup>1</sup> By existing laws municipal bonds are exempt from local taxation, but are taxable for state purposes at the rate of four mills on each dollar of the value thereof. The bonds of a city purchased and held for the sinking fund are not taxable for state purposes. *Commonwealth v. Reading*, 15 W. N. C. 529. See also *Commonwealth v. Martin*, 107 Pa. 185. It is the duty of the city treasurer to retain out of the interest on city bonds the state tax imposed on such bonds. *Wilkesbarre*

*Bank v. Wilkesbarre*, 148 Pa. 601; except where the city has itself assumed the payment of the tax, which it has lawful power to do. See *Fidelity Trust, etc., Company v. Scranton*, 102 Pa. 387. As to the mode of settlement with the state officers by city treasurers, see *Commonwealth v. City of Chester*, 123 Id. 626. The municipal treasury is the place where the bonds of the city and the interest thereon are lawfully payable. *Friend v. Pittsburgh*, 131 Id. 305.

and new registered bonds of the same or of a larger denomination, to the aggregate amount thereof, be issued, payable at the same time and place as the bonds so retired, to the order of the holder of said registered bonds, and be transferable only in the presence of the register, transfer agent, clerk or other person duly authorized by such state, county, city, municipal authority or corporation to keep the transfer book, and make such exchanges and transfers, which book of transfers the parties or corporations issuing such bonds are hereby required to keep; and for the interest due or to become due on the bonds so retired as aforesaid, it shall be lawful for the obligors to issue interest certificates at the same rate of interest, due at the same time and place as the original coupons corresponding with the denominations of the registered bonds, and payable to the order of the holder of said registered bonds.<sup>1</sup>

How to be transferable.

Interest certificates may be issued.

<sup>1</sup> This act is an amendment to sec. 1 of the Act of May 1, 1873, P. L. 87. The remaining sections of the latter act provide a general system by which the original bonds may be registered in the name of the holder and be transferable by endorsement.

By the Act of May 23, 1874, P. L. 222, the municipality permitting a transfer of its bonds is not responsible, unless upon previous notice in writing, for violations of trust which may be involved in such transfer.

## Boundaries.

1. Where boundary lines of city are the center of a stream, councils may change same to embrace the entire bed. Map and copy of ordinance to be filed in court of quarter sessions. Notice of filing to be given. Exceptions and hearing. If exceptions sustained, no further proceedings to be had for one year.

2. Disputed lines between cities, etc.  
3. Petition to court of quarter sessions. Appointment of viewers. Plot or draft. Report. Order of court. Review. Appeal. Feigned issue.  
4. Compensation of viewers. Mileage.  
5. Boundary lines to be marked. Expense, how to be borne.

1. Wherever the boundary lines of any city of the third class are, in whole or in part, the center of a stream or water course, the councils of the city may, by ordinance, change the lines so as to embrace the whole bed or margin of the stream and water course, and any roadway on the bank of such stream or water course within the limits of the city, and shall cause a map or plot of the part of the line so changed, together with a copy of the ordinance, to be filed in the court of quarter sessions of the county wherein such city is located, and notice of the filing of the same shall be given by publication in two newspapers published in the county—if there be two—nearest the limits of the said city, at least three weeks previous to the filing of said map or plot; and if no exceptions are filed on the first day of the term to which the publication is made, the same shall be conclusive; and if exceptions are filed, the court shall, at the next succeeding term, hear the parties and determine whether or not the exceptions shall be sustained. If the court, upon hearing, sustains the exceptions, no further proceedings shall be had in reference to such change of boundaries for one year by the councils of such city; but if the exceptions are overruled, the boundary

16 May 1891.  
§ 1. P. L. 68.

Where boundary lines of city are the center of a stream, councils may change same to embrace the entire bed.

Map and copy of ordinance to be filed in court of quarter sessions.

Notice of filing to be given.

Exceptions and hearing.

If exceptions sustained, no further proceedings to be had for one year.

16 May 1891. or boundaries ascertained by the ordinance and map shall be as therein fixed.<sup>1</sup>

3 June 1893. 2. The several courts of quarter sessions shall have author-  
 § 1. P. L. 284. ity within their respective counties to cause disputed lines and  
 Disputed boundaries between two or more cities, boroughs or townships,  
 lines between cities and boroughs, townships and boroughs, or cities and  
 cities, etc. townships to be ascertained and established.

Id. § 2. 3. Upon application by petition to the court of quarter  
 Petition to sessions for the purpose of ascertaining and establishing dis-  
 court of puted lines or boundaries between two or more cities, bor-  
 quarter ses- oughs or townships, cities and boroughs, townships and bor-  
 sions. oughs, or cities and townships, the court shall appoint three  
 Appointment impartial men, one of whom shall be a competent surveyor,  
 of viewers. who, after having given notice as directed by court, shall view  
 the said lines or boundaries; and it shall be the duty of the  
 Plot or draft. said commissioners so appointed, or any two of them, to make  
 a plot or draft of the lines proposed to be ascertained and es-  
 tablished, if the same cannot be fully designated by natural  
 Report. lines or boundaries; all of which they, or any two of them,  
 shall report to the next court of quarter sessions, together  
 with their opinion of the same, and at the term after that at  
 Order of which the report shall be made, the court shall take such order  
 court. thereupon as to it shall be just and reasonable; *Provided*,  
 Review. That upon petition a review may be ordered by said court;  
 Appeal. *And provided further*, That an appeal may be taken from the  
 decision of said commissioners of view or review, and the  
 Feigned question of fact in dispute determined by a feigned issue  
 issue. to be framed by the court after the manner of framing  
 feigned issues under existing laws, to be certified to the court  
 of common pleas of the proper county.

Id. § 3. 4. The commissioners so appointed shall each receive three  
 Compensation dollars per day, except the surveyor, who shall receive five  
 of viewers. dollars per day, and mileage at the rate of ten cents per mile  
 Mileage. for every mile necessarily traveled, for each and every day  
 necessarily employed while in the performance of their  
 duties, to be paid out of the county funds.

Id. § 4. 5. Whenever a line is finally established by virtue of this  
 Boundary act, the court shall cause the same to be marked with stone  
 lines to be monuments to be placed at intervals not exceeding fifteen  
 marked. hundred feet from each other, the expense thereof to be  
 Expense, reasonable and to be first approved by the court, and to be  
 how to be borne equally by the municipalities interested, and the court  
 borne. shall compel the payment of the same according to law.

<sup>1</sup> Upon the original incorporation of the city, the boundary lines are those which subsist at the time the vote is taken upon

the question of adopting a charter. See title "Incorporation."

## Bribery.

1. Soliciting or receiving bribes by councilmen. Penalty.

2. Bribery of councilmen. Penalty.

1. A member of councils who shall solicit, demand or receive, or consent to receive, directly or indirectly, for himself or for another, from any company, corporation or person, any money, office, appointment, employment, testimonial, reward, thing of value or enjoyment, or of personal advantage, or promise thereof, for his vote or official influence or for withholding the same, or with an understanding, expressed or implied, that his vote or official action shall be in any way influenced thereby, or who shall solicit or demand any such money or other advantage, matter or thing aforesaid for another, as the consideration of his vote or official influence, or for withholding the same, or shall give or withhold his vote or influence in consideration of the payment or promise of such money, advantage, matter or thing to another, shall be held guilty of bribery, and upon conviction thereof, shall be punished by a fine not exceeding ten thousand dollars, and by separate and solitary confinement at labor for a period not exceeding five years, and shall be forever incapable of holding any place of profit or trust in this commonwealth.

23 May 1880.  
Art. IV., § 8.  
P. L. 283.  
Soliciting or  
receiving bribes  
by councilmen.

2. Any person who shall directly or indirectly offer, give or promise any money or thing of value, testimonial, privilege or personal advantage to any member of councils to influence him in the performance or non-performance of any of his public or official duties, shall be guilty of bribery, and be punished in such manner as that offense is by law punishable.<sup>1</sup>

Id. § 9.  
Bribery of  
councilmen.

<sup>1</sup> See the Act of April 29, 1874, P. L. 115, defining the offence of corrupt solicitation of members of assembly, state,

county, election, municipal or other public officers, and prescribing the punishment therefor.

## Cities.

[See INCORPORATION.]

1. CONSTITUTIONAL PROVISIONS.
1. Incorporation of cities.
2. Appropriations for municipal debts.
3. Sinking fund.
4. Limitations upon local or special legislation.
5. Special municipal commissions prohibited.
6. Municipalities not to become stockholders in corporations, etc.

### II. CLASSIFICATION OF CITIES.

7. Cities divided into three classes—first

- class, second class, third class.
8. Classification to be according to U. S. census. Transfer of city to higher class. Governor to issue certificate. Certificate to be recorded. When new officers to be elected. Reorganization of city government.
9. What cities to be included in third class.
10. Proceedings for acceptance of the act of 1874. Surrender of former charter. Expiration of terms of officers. Pending actions.

### I. Constitutional Provisions.

1. Cities may be chartered whenever a majority of the electors of any town or borough having a population of at least ten thousand shall vote at any general election in favor of the same.

Const. 1874.  
Art. XV., § 1.  
Incorporation  
of cities.

Const. 1874.  
Art. XV., § 2.

Appropriations for municipal debts.  
Id. § 3.

Sinking fund.  
Id. Art. III, § 7.

Limitations upon local or special legislation.

2. No debt shall be contracted, or liability incurred by any municipal commission, except in pursuance of an appropriation previously made therefor by the municipal government.

3. Every city shall create a sinking fund, which shall be inviolably pledged for the payment of its funded debt.

4. The general assembly shall not pass any local or special law \* regulating the affairs of counties, cities, townships, wards, boroughs or school districts:<sup>1</sup> \* \* \* \* \*

Authorizing the laying out, opening, altering or maintaining roads, highways, streets or alleys: \* \* \* \* \*

Incorporating cities, towns or villages, or changing their charters: \* \* \* \* \*

Vacating roads, town plats, streets or alleys: \* \* \* \*

Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts: \* \* \* \* \*

Nor shall the general assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed.

Nor shall any law be passed granting powers or privileges in any case where the granting of such powers and privileges shall have been provided for by general law, nor where the courts have jurisdiction to grant the same, or give the relief asked for.

Id. § 20.

Special municipal commissions prohibited.

5. The general assembly shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust, or otherwise, or to levy taxes or perform any municipal function whatever.

Id. Art. IX., § 7.

Municipalities not to become stockholders in corporations, etc.

6. The general assembly shall not authorize any county, city, borough, township or incorporated district to become a stockholder in any company, association, or corporation, or to obtain or appropriate money for, or to loan its credit to any corporation, association, institution or individual.<sup>2</sup>

## II. Classification of Cities.

25 June 1896.  
§ 1. P. L. 275.

7. For the purposes of legislation regulating their municipal affairs,<sup>3</sup> the exercise of certain corporate powers, and hav-

<sup>1</sup> This provision is also applicable to municipal ordinances. Councils cannot do what the legislature is forbidden to do, nor does the agreement of the parties to be affected mend the matter. *Norristown v. Railway Companies*, 148 Pa. 87.

<sup>2</sup> As to the obligation of a city to pay its bonds lawfully issued under the provisions of an act of assembly to liquidate its indebtedness, but appropriated in violation of the above constitutional provision, see *Kerr v. Corry*, 105 Pa. 282. An appropriation by a municipality to a commercial body to defray the expenses of surveys to ascertain the feasibility of plans for the prospective improvement of

the city's trade and commerce is not within the prohibition of this section. *Commonwealth v. Pittsburgh*, 183 Id. 202.

<sup>3</sup> A classification of cities for purposes of legislation can be sustained only so far as the act relates to subjects of a purely municipal character. *Wyoming Street*, 137 Pa. 494; *Scranton v. Whyte*, 148 Id. 419; *Safe Deposit, etc., Co. v. Fricke*, 152 Id. 231; *Chalfant v. Edwards*, 173 Id. 246. Cities are creations of the legislative will. They have no vested rights in their offices or in their corporate existence. *Commonwealth v. Moir*, 199 Pa. 534.



ing respect to the number, character, powers and duties of <sup>25 June 1895.</sup> certain officers thereof, the cities now in existence and those <sup>Cities divided into three</sup> hereafter created in this commonwealth shall be divided into <sup>classes.</sup> three classes.

Those containing a population of one million or over shall <sup>First class.</sup> constitute the first class.<sup>1</sup>

Those containing a population of one hundred thousand <sup>Second class.</sup> and under one million shall constitute the second class.<sup>2</sup>

Those containing a population under one hundred thousand <sup>Third class.</sup> shall constitute the third class.<sup>3</sup>

8. The classification of said cities respectively shall be as- <sup>Id. § 2.</sup> certain and fixed by reference to their population according to the last preceding United States census,<sup>4</sup> and whenever it shall appear by any such census that any city of the second or third class has attained a population entitling it to an advance in classification as herein prescribed, it shall be the duty of the governor, under the great seal of the commonwealth, to certify the fact accordingly, which certificate shall be entered at large upon the minutes of the councils of such city, and recorded in the office for recording the deeds of the proper county. <sup>Classification to be according to U. S. census.</sup> <sup>Transfer of city to higher class.</sup> <sup>Governor to issue certificate.</sup> <sup>Certificate to be recorded.</sup>

At the municipal election occurring not less than one month after the date of such certificate, the proper officers shall be elected to which the said city will become entitled under the change in classification, and upon the first Monday of April next ensuing, the terms of all officers of said cities then in office whose offices are superseded by reason thereof, shall cease and determine, and the city government shall be duly organized, and shall thereafter be controlled and regulated by the laws of this commonwealth applicable to the same under the classification hereby fixed and appointed.<sup>5</sup> <sup>When new officers to be elected.</sup> <sup>Reorganization of city government.</sup>

9. The term "cities of the third class" shall include only:<sup>6</sup>

<sup>1</sup>The only city of the first class is Philadelphia.

<sup>2</sup>The cities of the second class are Pittsburgh, Allegheny City and Scranton.

<sup>3</sup>This act superseded that of May 8, 1889, P. L. 133, which also divided cities into three classes, fixing the minimum population of cities of the first class at six hundred thousand. The Act of April 11, 1876, P. L. 20 (extending the number of classes of cities from three, as fixed by the Act of May 23, 1874, P. L. 230, to five), and that of May 24, 1887, P. L. 204 (further extending the number of classes to seven), had previously been declared unconstitutional in *Ayars' App.*, 122 Pa. 266 (1888), it being therein held that the power of classification, permissible under the constitution, having once been exercised by the legislature in the Act of 1874, it was not competent thereafter to extend the number of classes as originally fixed.

<sup>4</sup>This act significantly omits the words "or any municipal census taken later," which occurred in this connection in the

next preceding classification Act of May 8, 1889, P. L. 133, the United States census being here made the exclusive criterion of population.

<sup>5</sup>See, as to the effect and operation of the transition of a city from one class to another under the similar Act of May 8, 1889, P. L. 133, *Commonwealth v. Wyman*, 137 Pa. 508; *Commonwealth v. Macferron*, 152 Id. 244.

<sup>6</sup>See the Act of June 25, 1895, *supra*. As the latter is of later date, *quære* as to its effect upon the sub-classification of third-class cities fixed by the above section? Comp. *Lackawanna Township, Harris' App.*, 160 Pa. 494; *Liem's App.*, 9 Super. Ct. R. 569. Territorially, every city is to be "deemed and taken to form part of the county in which it is or may be situate, saving nevertheless to each city and to the citizens thereof all and singular the jurisdictions, powers, rights, liberties, privileges and immunities granted by the respective charters and by the laws of this commonwealth." Act April 15, 1834, § 2, P. L. 537.

23 May 1889.  
Art. XIX.,  
§ 1 P. L. 332.

What cities to  
be included in  
third class.

First. All cities of the proper population which have been incorporated under the provisions of an act of assembly entitled: "An act dividing cities of this state into three classes, regulating the passage of ordinances, providing for contracts for supplies and work for said cities, authorizing the increase of indebtedness and the creation of a sinking fund to redeem the same, defining and punishing certain offenses in all of said cities, and providing for the incorporation and government of the cities of the third class," approved the twenty-third day of May, one thousand eight hundred and seventy-four, or which may hereafter be incorporated under the provisions of this act;

Second. All cities of the proper population which have accepted the provisions of the said act of the twenty-third day of May, one thousand eight hundred and seventy-four, in the manner prescribed in the fifty-seventh section thereof;

Third. All other cities of the proper population only from and after the date of their acceptance of the provisions of the said act of the twenty-third day of May, one thousand eight hundred and seventy-four, in the manner prescribed in the fifth [fifty-seventh] section thereof.<sup>1</sup>

23 May 1874.  
§ 57, P. L. 269.

Proceedings for  
acceptance of  
the Act of 1874.

10. Any city of the third class, or any city of less population than ten thousand inhabitants, heretofore incorporated, may become subject to the provisions of this act, governing such cities of the third class to be hereafter incorporated, and the mayor and councils of such city may effect the same by an ordinance thereof, duly passed by a majority of the members elected to each branch thereof voting in favor of the same, and a certified copy of such ordinance, approved by the mayor and duly certified, accompanied by a statement of the vote thereon, with the names of the members voting for and against said ordinance, shall be forwarded to and filed in the office of the secretary of this commonwealth, and when so filed the governor shall, under the great seal of the commonwealth,

<sup>1</sup> The several cities of the third class, to the government of which the Act of 1889 is thus made to apply, are as follows:—the date of the governor's certificate either (1) of their acceptances of the provisions of the Act of 1874, (2) of their original incorporation under the Act of 1874, or (3) of their incorporation under the Act of 1889, respectively, being appended:

#### I. CITIES ACCEPTING PROVISIONS OF ACT OF 1874.

1. Reading.....July 8, 1874
2. Harrisburg.....August 25, 1874
3. Allentown.....September 23, 1874
4. New Castle.....May 17, 1875
5. Williamsport.....February 4, 1876
6. Titusville.....December 24, 1877
7. Erie.....March 27, 1878
8. Oil City.....February 17, 1881
9. Altoona.....August 2, 1884
10. Carbondale.....June 21, 1886
11. Chester.....January 17, 1890
12. Meadville.....August 13, 1891

13. Corry.....October 1, 1896
14. Wilkesbarre.....September 22, 1898

#### II. CITIES INCORPORATED UNDER ACT OF 1874.

15. Bradford.....January 14, 1879
16. Lebanon.....November 25, 1885
17. York.....January 11, 1887
18. Easton.....January 12, 1887

#### III. CITIES INCORPORATED UNDER ACT OF 1889.

19. Johnstown.....December 18, 1889
20. McKeesport.....January 15, 1891
21. Hazleton.....December 4, 1891
22. Pittston.....December 10, 1894

The cities entitled to become cities of the third class under existing laws, but still operating under local charters granted prior to 1874, with dates of such charters are (1) Lancaster, March 20, 1813; (2) Franklin, April 4, 1868; (3) Lock Haven, March 28, 1870; (4) Monongahela City, March 24, 1873.

certify the surrender of the former charter and the acceptance of the provisions of this act by such city; which certificate shall be recorded among the minutes of councils, and in the office for the recording of deeds in the proper county; and from the date of such certificate, the said city shall be governed, controlled and regulated by and under the provisions of the act; but all of the property and estates whatsoever of the said city shall be and remain severally and respectively vested in the said city unchanged, and as before the said surrender; and all of the elected officers therein shall hold their respective offices until the expiration of the term for which they were respectively elected,<sup>1</sup> and shall have all of the rights and powers which belong by law to them respectively, under the laws in existence at the date of the surrender as aforesaid; no such acceptance shall be construed to be a repeal or surrender of any rights, powers, privileges and franchises heretofore by law conferred on such city, not inconsistent with the provisions of this act. The mayor and councils, school directors or controllers and other officers of such city, shall continue to hold their respective offices until the Friday succeeding the third Tuesday of February next following the date of the expiration of their office as fixed by law before the said surrender of the former charter; but in any case in which a mayor, councils, school directors, controller or other officer shall have been elected, and not is or are yet in office, they shall hold their said office for the term for which they shall have been respectively elected, and their successors shall be elected under the provisions of this act, on the said last-named third Tuesday in February. All suits, prosecutions, debts, taxes and claims whatever belonging to the said city, shall be and remain of full force, and shall be sued for, recovered or collected under the provisions of law governing the said city prior to the surrender aforesaid, and all proceedings therefor commenced before such surrender, shall be proceeded in as though no change had been made; and all claims and demands of whatever nature against said city, existing prior to the said surrender, shall remain of full force and be collected as though no change had been made in the laws regulating and governing such city.<sup>2</sup>

23 May 1874.  
Surrender of  
former charter.

Expiration of  
terms of  
officers.

Pending  
actions.

<sup>1</sup> See *Commonwealth v. Davis*, 22 Pa. C. C. R. 533; *Commonwealth v. Ricketts*, 196 Pa. 598.

<sup>2</sup> The constitutionality of this section was first denied by the supreme court:

*Reading v. Savage*, 120 Pa. 198 (1888), and subsequently, upon a rehearing, affirmed: *Reading v. Savage*, 124 Id. 328 (1889). See also *Commonwealth v. Reynolds*, 137 Pa. 389.

**Constables.**

[See LIQUORS—POLICE—RAILROADS.]

## 1. Election of constables. Vacancies.

## 2. State fee bill of constables.

4 May 1889.  
§ 1. P. L. 88.Election of  
constables.

Vacancies.

17 Feb. 1890.  
§ 1. P. L. 8.

1. The qualified electors of each ward in cities of the second and third classes shall, on the third Tuesday of February next, and triennially thereafter, elect a properly qualified person for constable in each of said wards, who shall serve for three years.<sup>1</sup> Whenever a constable shall be appointed by the court, as provided by existing laws, the constable so appointed shall serve for the unexpired term.

2. From and after the passage of this act the fees to be charged and received by constables in this commonwealth shall be as follows:

	Dolls.	Cts
State fee bill of constables. For executing a warrant on behalf of the commonwealth, for each defendant.....	1	00
For conveying defendants, except vagrants, to jail, on mittimus or warrant, for first defendant..	1	00
And for each additional defendant.....		50
And in addition thereto the actual cost of transportation of such defendant or defendants.		
For arresting persons guilty of a breach of the peace, riotous or disorderly conduct, drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens; or violating any ordinance of any borough for the violation of which a fine or penalty is imposed, or offending, or suspected of offending against the laws of this commonwealth protecting timber lands, or the violation of any other law of this commonwealth authorizing arrest by constable without process, and bringing such offender before a justice of the peace, for each defendant.....		75
And for every act in or about the arrest or commitment of vagrants, for each vagrant so arrested, or arrested and committed.....		75
And mileage as hereinafter provided.		
For levying a fine or forfeiture on a warrant....		50
For taking the body of a defendant into custody on a mittimus, where bail is afterwards entered before delivery of body to the jailor.....	1	00

<sup>1</sup> By the Act of March 10, 1875, Sec. 1, P. L. 6, the terms of constables in cities and boroughs begin on the first Monday of April succeeding their election, and by the Act of June 4, 1879, Sec. 1, P. L. 94, in townships on the first Monday of March. By the Act of 1834 a constable,

unless he be a freeholder, is required to give bond in such sum, not less than five hundred, nor more than three thousand dollars, as the court may direct. Suits against the sureties must be instituted within five years after the date of the bond. Act June 10, 1897, P. L. 139.

# CONSTABLES.

37

	Dolls.	Cts
For executing bail piece.....	1	00 <sup>17</sup>
For executing a search warrant and making return thereon .....	1	00
For making returns to the court of quarter sessions <sup>1</sup> .....	1	50
For serving summons notices on referees, suitor or tenant, either personally or by leaving a copy, for each person served.....		50
For serving subpoena, for first witness.....		50
And for each additional witness served.....		15
For executing attachment, for each defendant and garnishee served .....		50
For arresting on a capias, for each person arrested .....	1	00
For taking bail on a capias, or for delivery of goods .....		50
For notifying plaintiff, where defendant has been arrested on capias, to be paid by plaintiff....		25
For serving capias execution.....	1	00
For executing landlord's warrant.....		50
For taking inventory of goods, each item.....		02
For levying or distraining goods.....		50
For selling goods levied or distrained, for each dollar not exceeding one hundred dollars.....		03
And for each dollar in excess of one hundred dollars .....		02
For receiving and paying over money paid after a levy without sale, on each dollar actually received and paid over by the constable to the creditor .....		02
For advertising sale of goods levied or distrained.	1	00
For copy of vendue paper, when demanded, each item .....		02
For putting up notice of distress at mansion house or at any other place on the premises.....		25
For serving scire facias, either personally or by leaving a copy, for each person served.....		50
For executing order of removal of a pauper <sup>2</sup> .....		75
For serving executions.....		50
For making return of nulla bona or non est inventus on any writ.....		25
For executing writ of restitution.....	2	00
For executing writ of possession.....	2	00
For serving summons in landlord and tenant proceedings .....		50
For taking inventory of goods on an execution, each item .....		02

<sup>1</sup>The fees and mileage allowed for making returns to the court, and for attending elections, are to be paid by the county. Act of April 6, 1899, P. L. 82. The Act of July 2, 1901, P. L. 609, provides for payment of fees to constables for these

services prior to the passage of the act in the text.

<sup>2</sup>The Act of May 2, 1901, P. L. 131, provides for the allowance of mileage at six cents per mile, and actual car fare for transportation of a pauper.

	Dolls.	Cts
17 Feb. 1899. For holding appraisal, where exemption is claimed by defendant.....	4	00
Out of which the constable shall pay to each appraiser .....	1	00
For attending general, special, township, ward or borough election .....	3	00
Which sum shall include pay for serving notices in writing to the persons elected at such special, township, ward or borough elections; <i>Provided</i> , That where any such election be held in any township, ward or borough in which there are more than one election district or precinct, and a deputy constable is appointed to attend elections held at each of such districts or precincts, said deputy constables shall each receive the sum of.....	3	00
For traveling expenses in the performance of any duty or service required by law, each mile going and returning.....		06
To be computed by the route usually traveled in going from points and places where said constable may reside, or where he receives any paper to be executed, to the points or places required to be traveled, whether that route be by highways, railroads or otherwise; <i>Provided</i> , That in no case shall more mileage be demanded or received than for the miles actually traveled.		
For services not herein specially provided for, the same fees may be charged and received as for similar services. <sup>1</sup>		

<sup>1</sup> Section 2 of this act repeals all acts or parts of acts inconsistent therewith, with certain exceptions therein specified. The previous Act of May 23, 1893, P. L. 117, had been held to repeal the fee bill of 1868 prescribing the amounts chargeable by justices and constables for services therein mentioned, and to be of general application. *Fenner v. Luzerne County*, 187 Pa. 632; *Fraim v. Lancaster County*, 171 Id. 436; and also to repeal all local

acts on the same subject. *Hays v. Cumberland County*, 5 Super. Ct. R. 159; 186 Pa. 109. The act in the text is evidently framed with the intention of removing ambiguities in certain details of the Act of 1893, which had given rise to much litigation, notably the service of subpoenas and mileage. It also supplies the provisions of the Act of June 15, 1897, P. L. 165.

## Contagious and Infectious Diseases.

1. Physicians to report cases of contagious or infectious diseases to health board. Diseases which must be reported. Contents of report.

2. Infected premises to be placarded. How long placard to remain. Guard may be placed on premises.

3. Head of family to be responsible for defacement or destruction of placard.

4. Duties of undertaker in cases of death from contagious disease. When body to be placed in coffin. Coffin to be tightly closed. Health authorities may adopt more stringent rules.

5. Bodies to be buried within thirty-six hours, unless by special permission of board. Who responsible for violation of this provision.

6. Funeral services to be private. Advertisement of funeral to state cause of death. Responsibility for violation of this provision.

7. Body not to be taken into church or public building. Who to be responsible for violation of this provision.

8. Number of funeral conveyances limited. Vehicles to be disinfected.

9. Body to be conveyed in hearse, etc. Who responsible for violation of this provision.

10. Bedding, clothing, etc., to be disinfected or destroyed. Who responsible for violation of this provision.

11. Children residing in infected family not to attend schools. Period of exclusion. Certificate by medical attendant. Proviso.

12. Principals of schools to exclude scholars unprovided with vaccination certificate.
13. Blanks to be furnished by health board. School register to exhibit names of children admitted or rejected.
14. Health authorities to furnish daily reports to schools of cases of contagious diseases. Contents of report. Proviso.
15. Infected persons or attendants not to enter public conveyances without notifying owner or driver. Conveyance to be disinfected.
16. Infected persons not publicly to expose themselves.

17. Infected bedding or clothing.
18. Infected premises not to be let without disinfection. Provision to apply to hotels and boarding houses.
19. Health authorities to adopt regulations for isolation of infected persons, fumigation, etc.
20. Who not to be members of health department.
21. Penalty for violation of provisions of act. Summary conviction. Appropriation of fines. Limitation of actions.

1. Every physician located or practicing in any of the municipalities of this commonwealth who shall know that any person whom he or she is called upon to visit, or who comes or is brought to him or her for examination, is suffering from, or is afflicted with cholera, small-pox (variola or varioloid), diphtheria, diphtheritic croup, membranous croup, scarlet fever, typhoid fever, typhus fever, yellow fever, epidemic cerebro-spinal fever, relapsing fever or leprosy, shall forthwith make report in writing, or upon blanks to be furnished for that purpose to the health authorities of the municipality in which said person may be located, which said report shall, over his or her own signature, state the name of the disease and the name, age, and sex of the person suffering therefrom, and shall also set forth by street and number, or otherwise sufficiently designate the house, room or other place in which said person may be located, together with such other information relating thereto as may be deemed important by said health authorities.

18 June 1896.  
§ 1. P. L. 203.

Physicians to report cases of contagious or infectious diseases to health board.

Diseases which must be reported.

Contents of report.

2. Upon receipt by the health authorities of a report of the existence of a case of cholera, small-pox (variola or varioloid), scarlet fever, typhus fever, yellow fever, relapsing fever, diphtheria, diphtheritic croup, membranous croup or leprosy, in any of said municipalities, they may at once place or cause to be placed in a conspicuous place or places upon or near the house or premises in which said case may be located, a placard or placards, upon which shall be printed in large letters the name of the disease from which the person or persons in said house or premises may be suffering as aforesaid, as the case may be; *Provided*, That variola or varioloid shall be placarded as "small-pox," and that diphtheritic croup and membranous croup shall be placarded as "diphtheria," and said placard or placards shall remain thereon until such time as the rules and regulations established by the health authorities regarding the destruction or disinfection of infected bedding, clothing or other articles which have been exposed to infection, and the disinfection of houses and premises have been fully complied with; *Provided*, That in addition to the placarding aforesaid, or in lieu of the same, the said health authorities may place a guard or guards upon said house or premises.

Id. § 2.

Infected premises to be placarded.

How long placard to remain.

Guard may be placed on premises.

3. The head of the family occupying any house or premises upon or near which said placard or placards aforesaid may be

Id. § 3.

18 June 1896.

Head of family to be responsible for defacement or destruction of placard.

placed shall be liable for the fine or penalty provided by this act in any case where such placard or placards are removed, defaced, covered up, taken down or destroyed, with his or her knowledge or consent, before the time provided by section two of this act.

Id. § 4.

Duties of undertaker in cases of death from contagious disease.

When body to be placed in coffin.

Coffin to be tightly closed.

Health authorities may adopt more stringent rules.

4. In the care and burial of the bodies of persons who have died of cholera, small-pox, yellow fever, typhus fever, scarlet fever, relapsing fever, diphtheria, diphtheritic croup, membranous croup or leprosy in any of the municipalities of this commonwealth, it shall be the duty of the undertaker, or other person or persons having the body in charge, to thoroughly disinfect and place every such body within the coffin or casket in which it is to be buried within six hours after being first called upon to take charge of the same; *Provided*, Said call is made between the hours of five ante meridian and eleven post meridian, otherwise such body shall be so placed in such coffin or casket within twelve hours, the coffin or casket then to be closed tightly and not again opened, unless permission be granted by the health authorities for special and satisfactory cause shown; *Provided*, That the health authorities in any municipality may adopt more stringent rules and regulations than are herein provided for the disinfection, preparation and burial of the bodies of persons who have died of any of the diseases named in this section, which rules and regulations they may from time to time alter or amend.

Id. § 5.

Bodies to be buried within thirty-six hours unless by special permission of board.

Who responsible for violation of this provision.

5. The body of a person who has died of any of the diseases mentioned in section four of this act shall not remain unburied for a longer period of time than thirty-six hours after death, unless special permission be granted by the health authorities extending the time during which said body may remain unburied, for special and satisfactory cause shown. The head of the family and the person or persons having charge of the funeral of such body shall be responsible for any violation of the provisions of this section.

Id. § 6.

Funeral services to be private.

Advertisement of funeral to state cause of death.

Responsibility for violation of this provision.

6. All services held in connection with the funeral of the body of a person who has died of any of the diseases mentioned in section four of this act, must be private, and the attendance thereat shall include only the immediate adult relatives of the deceased and the necessary number of adult pall-bearers, and any advertisement of such funeral shall state the cause of death. The head of the family, and the person or persons having charge of said funeral services, shall be responsible for any violation of the provisions of this section.

Id. § 7.

Body not to be taken into church or public building.

Who to be responsible for violation of this provision.

7. The body of a person who has died of any of the diseases mentioned in section four of this act, shall in no instance be taken into any church, chapel, public hall or public building, for the holding of funeral services. The head of the family and the person or persons having charge of said funeral services, and the sexton, janitor, or other person or persons having charge or control of such church, chapel, public hall or



public building shall be responsible for any violation of the provisions of this section. 15 June 1896.

8. No undertaker, or other person or persons having charge of the funeral or burial of the body of a person who has died of any of the diseases mentioned in section four of this act, shall in any case furnish or provide for such funeral more than the necessary number of conveyances for said adult relatives and pall-bearers, and all such conveyances which may have been used or occupied by any person or persons who have been residing in the same family or house, with the deceased, shall be fumigated and disinfected at such time and in such manner as may be directed and required by the health authorities. Id. § 8.  
Number of funeral conveyances limited.  
  
Vehicles to be disinfected.

9. The body of a person who has died of any of the diseases mentioned in section four of this act, shall not be conveyed to or from any dwelling or other building or place, to any cemetery or other point or place within or through any of said municipalities except in a hearse or other vehicle used for the purpose of conveying corpses only, or in such vehicle as shall be satisfactory to the health authorities and under such regulations as they may in any case adopt. The undertaker and the person or persons having charge of the funeral or transportation of such body shall be responsible for any violation of the provisions of this section. Id. § 9.  
Body to be conveyed in hearse, etc.  
  
Who responsible for violation of this provision.

10. Upon the removal to hospital or other place, or upon the discharge by recovery or death, of any person or persons who have suffered from any of the diseases mentioned in section four of this act, the premises where the said disease existed shall be fumigated and disinfected, and the bedding, clothing and other infected articles destroyed or disinfected, at such time and in such manner as may be authorized and required by the health authorities. The head of the family, or the person or persons having charge of the premises shall be responsible for any violation of the provisions of this section. Id. § 10.  
Bedding, clothing, etc., to be disinfected or destroyed.  
  
Who responsible for violation of this provision.

11. No child or other person belonging to or residing with the family of any person, or residing in the same house in which any person may be located who is suffering from cholera, small-pox (variola or varioloid), scarlet fever, typhus fever, yellow fever, relapsing fever, diphtheria, diphtheritic croup, membranous croup or leprosy shall be permitted to attend any public, private, parochial, Sunday or other school in said municipalities, and all school principals, Sunday-school superintendents, or other persons in charge of such schools, are hereby required to exclude any and all such children and persons from said schools, such exclusion to continue for a period of thirty days following the discharge by recovery or death of the person last afflicted in said house or family, or his or her removal to hospital, and the thorough disinfection of the premises; and all such children or other persons as aforesaid before being permitted to attend or re- Id. § 11.  
Children residing in infected family not to attend schools.  
  
Period of exclusion.

18 June 1896.

Certificate by  
medical at-  
tendant.

Proviso.

Id. § 12.

Principals of  
schools to ex-  
clude scholars  
unprovided  
with vaccina-  
tion certificate.

Id. § 13.

Blanks to be  
furnished by  
health board.School register  
to exhibit  
names of chil-  
dren admitted  
or rejected.

Id. § 14.

Health authori-  
ties to furnish  
daily reports  
to schools of con-  
tagious diseases.Contents of  
report.

Proviso.

Id. § 15.

turn to school, shall furnish to said principal or other person in charge of said schools a certificate signed by the medical attendant of said children or persons, or by a physician to be designated by the health authorities of said municipalities, setting forth that the thirty days mentioned in this section have fully expired; *Provided, however*, That the health authorities may by rule or regulation provide that such certificates shall only be given by a person to be designated by said authorities, and in such case no other certificate shall be recognized.

12. All principals or other persons in charge of schools as aforesaid are hereby required to refuse the admission of any child to the schools under their charge or supervision except upon a certificate signed by a physician, setting forth that such child has been successfully vaccinated, or that it has previously had small-pox.<sup>1</sup>

13. The health authorities of said municipalities shall furnish to principals or other persons in charge of said schools, and to physicians, the necessary certificates or blanks for the uses and purposes as set forth and required in sections one, eleven and twelve of this act. The registry of said school shall exhibit the names and residences of all children or persons admitted or rejected for reasons set forth in this act, and said registry shall be open at all times to the inspection of the health authorities.

14. It shall be the duty of the health authorities in the several municipalities as aforesaid to furnish daily, by mail or otherwise, to principals or other persons in charge of said schools, a printed or written bulletin containing the name, location and disease of all persons suffering from cholera, small-pox (variola or varioloid), scarlet fever, typhus fever, yellow fever, relapsing fever, diphtheria, diphtheritic croup, membranous croup or leprosy, upon receipt by them of reports of such cases from physicians as required in section one of this act; *Provided*, That the health authorities of any municipality may, in lieu of the daily bulletin herein required, provide that a notice shall be given to the school or schools attended by the children in whose home or residence any of the diseases mentioned in this section exist, and prescribe the form of said notice.

15. No person suffering from any of the diseases mentioned in section four of this act, nor any one who has charge of a person so suffering, shall enter any hired vehicle or other

<sup>1</sup> A school board may legally enforce such a rule. *Duffield v. S. D. of Williamsport*, 162 Pa. 476; *Field v. Robinson*, 193 Id. 638. The legislature has undoubted authority to require vaccination as a condition precedent to admission to public schools. *Nissley v. Hummelstown Borough*, 18 Pa. C. C. R. 481; 5 Dist. R. 732. See also *Sprague v. Baldwin*, 18 Pa. C. C. R. 668. The act is constitutional. *Beve-*

*ridge v. Winner*, 31 Pitts. R. 40; *Commonwealth v. Hanley*, 15 Super. Ct. R. 271; *Commonwealth v. Smith*, 24 Pa. C. C. R. 129, 9 Dist. R. 625. By the Act of April 14, 1903, P. L. 172, it is made the duty of school directors or trustees of college buildings to put into operation a system of disinfection of buildings under their control, subject in cities to the approval of the local board of health.

public conveyance, or permit any one in his or her charge, who is so suffering, to enter such vehicle, without previously notifying the owner or driver thereof that he or the person in his charge is so suffering, and the owner or driver of such vehicle shall immediately provide for the disinfection of such conveyance after it has, with the knowledge of such owner or driver, conveyed any such sufferer, under the direction of the health authorities.

18 June 1896.

Infected persons or attendants not to enter public conveyances without notifying owner or driver.

Conveyance to be disinfected.

16. No person suffering from any of the diseases named in section four of this act shall willfully expose himself or herself in any street or public place, or public conveyance, nor shall any person in charge of one so suffering thus expose the sufferer.

Id. § 16.

Infected persons not publicly to expose themselves.

17. No person shall, without previous disinfection, give, lend, sell, transmit or expose any bedding, clothing, rags or other articles which have been exposed to infection; *Provided*, That such restriction shall not apply to the transmission of articles, with proper precautions, for the purpose of having the same disinfected.

Id. § 17.

Infected bedding or clothing.

18. No person shall knowingly let any room, house or part of a house, in which there has been a person suffering from any of the diseases mentioned in section four of this act, without having such room, house or part of a house, and all articles therein liable to infection, previously disinfected to the satisfaction of the health authorities. The keeping of a hotel, boarding house or apartment house shall be deemed as letting a part of a house to any person who shall be admitted as a guest into such hotel, boarding house or apartment house.

Id. § 18.

Infected premises not to be let without disinfection.

Provision to apply to hotels and boarding houses.

19. The health authorities of the several municipalities of this commonwealth shall, and they are hereby authorized and empowered, to establish rules and regulations regarding the isolation of persons who may be suffering from any of the diseases mentioned in section four of this act, and for the destruction, disinfection and fumigation of bedding, clothing or other infected articles, and for the disinfection and fumigation of houses and premises, and for the carrying out of the provisions of this act, as they may in good faith declare the public safety and health demand, which rules and regulations they may from time to time alter or amend.

Id. § 19.

Health authorities to adopt regulations for isolation of infected persons, fumigation, etc.

20. No justice of the peace or other officer, excepting election officers, shall at the same time be a member of the board of health of such municipality, or hold any office or appointment under the same.

Id. § 20.

Who not to be members of health department.

21. Any physician, undertaker, principal of a school, superintendent of a Sunday-school, sexton, janitor, head of a family, or any other person or persons named in this act, who shall fail, neglect or refuse to comply with, or who shall violate any of the provisions or requirements of this act, shall for every such offense, upon conviction thereof before any mayor, burgess, alderman, police magistrate or justice of the peace

Id. § 21.

A Penalty for violation of provisions of act.

Summary conviction.

18 June 1896.

Appropriation  
of fines.Limitation of  
actions.

of the municipality in which said offense was committed, be liable to a fine or penalty therefor of not less than five dollars nor more than one hundred dollars; which said fines or penalties shall be paid into the treasury of said municipality, and in default of payment thereof such person or persons so convicted shall undergo an imprisonment in the jail of the proper county for a period not exceeding sixty days; *Provided, however*, That all actions for the recovery of any fine or penalty for the violation of any of the provisions of this act shall be commenced within sixty days from the commission of the offense, and not afterwards.<sup>1</sup>

<sup>1</sup> The section amended by the addition of the proviso by the Act of April 22, 1903, P. L. 244.

Other acts germane to the subject of the disposition of human bodies which may be cited are those of June 8, 1891, P. L. 212, with relation to the cremation of human bodies, and June 7, 1896, P. L. 167, creating a state board of undertak-

ers and providing for the registration and licensing of undertakers in cities of the first, second and third classes (amended by the Act of April 24, 1905, P. L. 299), for a construction of which statute see *Undertakers' Licenses*, 17 Pa. C. C. R. 103; 4 Dist. R. 701, and *Commonwealth v. Hanley*, 15 Super. Ct. R. 271.

## Contracts.

1. Supplies to be furnished by contract to be let to lowest responsible bidder. Contingent fund for incidental expenses.

2. City officers not to be parties to contracts creating liability by city. Illegal contract to be void.

3. Eight hours to constitute day's labor on public works.

4. To whom act to apply. Aliens not to be employed on public work unless upon declaration of intention to become citizens. Existing contracts not to be affected.

5. Officers or agents violating or evading act to be removed.

6. Non-compliance with act by officers, agents, etc., to be misdemeanor. Penalty.

23 May 1899.  
Art. IV., § 6.  
P. L. 283.

Supplies to be  
furnished by  
contract to be  
let to lowest  
responsible  
bidder.

1. All stationery, paper and fuel used in the councils and in other departments of the city government, and all work and materials required by the city shall be furnished, and the printing, advertising and all other kinds of work to be done for the city, except ordinary repairs of highways, sewers and other public improvements, shall be performed under contract, to be given to the lowest responsible bidder,<sup>1</sup> under such

<sup>1</sup> As to construction of this language, see *Commonwealth v. Mitchell*, 82 Pa. 343; *Findley v. Pittsburgh*, Id. 351; *Addis v. Pittsburgh*, 85 Id. 379; *Douglas v. Commonwealth*, 108 Id. 559; *Philadelphia v. Pemberton*, 208 Id. 214; *Williamsport v. Hughes*, 21 Super. Ct. R. 443. The intent is to secure to the city the benefit and advantage of fair and just competition between bidders, and at the same time prevent favoritism and fraud in every form, and to that end it is essential that there should be plans and specifications on which to bid, as otherwise there can be no competitive bidding. *Mazet v. Pittsburgh*, 137 Pa. 648. A provision in the specifications of a municipal contract for water works requiring the contractor to employ no one not a citizen of the United States, and to pay not less than one dollar and a half per day as wages, is inconsistent with the requirements of the above section. *Frame v. Felia*, 167 Pa. 47, and see *New Castle v. Reario*, 18 Super. Ct. R. 350. Where the right is reserved to reject any or all bids, and all the bids are rejected, there can be no right on the part of a contractor, though

claiming to be the lowest responsible bidder, to have the contract awarded to him, for no one is legally entitled to the contract until it is legally awarded to him. *American Pavement Co. v. Wagner*, 139 Pa. 623. See also *Lamprecht v. Williamsport*, 22 Pa. C. C. R. 603. The city is not required to award the contract to the lowest bidder who is able pecuniarily to carry out his contract, but it may also take into consideration the judgment and skill of the different bidders. *Paving Co. v. Philadelphia*, 164 Pa. 477. *Eric v. Bier*, 10 Super. Ct. R. 381. The municipal authorities, acting in their discretion and in good faith, may award the contract to a higher bidder, if considerations of superior skill, promptness or efficiency on the part of such bidder lead them so to do. *Reuting v. Titusville*, 175 Pa. 512. *Comp. McDonough v. Washington Borough*, 20 Pa. C. C. R. 345. Where an article needed by a municipality is made by one company only, and under the protection of letters-patent, it is not necessary to advertise for proposals. *Silsby Mfg. Co. v. Allentown*, 153 Pa. 319.

regulations as shall be prescribed by ordinance, and all sales of personal property owned by the city shall be to the highest responsible bidder, under such regulations as shall be prescribed by ordinance or resolution. Councils may by ordinance provide a contingent fund for necessary repairs or incidental expenses, not otherwise provided for, which may be expended without advertising for bids.<sup>1</sup>

<sup>23</sup> May 1880.  
Art. IV.  
Contingent  
fund for incidental  
expenses.

2. No member of councils, or other officer of such city, shall, either directly or indirectly, be a party to, or in any manner interested in any contract or agreement with such city for any matter, cause or thing whatsoever by which any liability or indebtedness is in any way or manner created against such city, and if any contract or agreement shall be made in violation of the foregoing provision, the same shall be null and void, and no action shall ever be maintained thereon against said city.

Id. § 18.  
City officers  
not to be  
parties to contracts creating  
liability by  
city.  
Illegal contract  
to be void.

3. On and after the passage of this act eight hours out of the twenty-four of each day shall make and constitute a legal day's work for mechanics, workmen and laborers in the employ of the state, or any municipal corporation therein, or otherwise engaged on public works.

<sup>26</sup> July 1897.  
§ 1. P. L. 418.  
Eight hours to  
constitute day's  
labor on public  
works.

4. This act shall apply to all mechanics, workingmen and laborers now or hereafter employed by the state, or any municipal corporation therein, through its agents or officers, or in the employ of persons contracting with the state or said corporation for the performance of public work, and in all such employment none but citizens of the United States, or aliens who shall have legally declared their intention to become such, who have been residents of the state in which such work is to be done for the six months next preceding the date of such employment, shall be employed by the state or any municipal corporation therein, or by any person or persons contracting with the same; and every contract hereafter made for the performance of public work must comply with the requirements of this section; *Provided*, That nothing in this act shall affect contracts in existence at the time of the passage of this act.

Id. § 2.  
To whom act  
to apply.  
Aliens not to  
be employed  
on public work  
unless upon  
declaration of  
intention to be-  
come citizens.

5. Any officer or officers or agents of the state, or of any municipal corporation therein, who shall wilfully violate or otherwise evade the provisions of this act, shall be deemed guilty of malfeasance in office, and upon conviction thereof may be removed by the governor or head of the department to which said officer is attached.

Id. § 3.  
Officers or  
agents violating  
or evading act  
to be removed.

6. Any person or persons contracting with the state or any municipal corporation therein, and any officer or agent of the state or any municipal corporation therein who shall fail to comply with, or attempt to evade the provisions of this act

Id. § 4.  
Non-compliance  
with act by  
officers, agents,  
etc., to be mis-  
demeanor.

<sup>1</sup> The section amended as above by Act of May 16, 1901, § 4, P. L. 226.

26 July 1897. shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding one thousand dollars.<sup>1</sup>

<sup>1</sup> See the Acts of June 7, 1897, P. L. 135, requiring the retention of taxes of aliens from their wages by employers, upon notice, and June 15, 1897, P. L. 166, levying a tax of three cents per day upon employers of aliens, and prescribing the

manner of its collection. The latter was declared unconstitutional in *Limestone Co. v. Fagley*, 187 Pa. 193, and by the Act of May 21, 1901, P. L. 205, the taxes collected thereunder were directed to be refunded.

## Controller.

1. Election of city controller. Qualifications. Term. To superintend fiscal concerns. To audit and settle accounts. To administer oaths.

2. Books of accounts to be kept, and what same to contain.

3. Supervision of accounts of all fiscal departments. Reporting of irregularities. Auditing of accounts.

4. Countersigning of warrants. When incomplete appropriation exhausted, fact to be reported to councils. What evidence to be produced to controller in countersigning warrants.

5. Contracts to designate item of appro-

priation and be certified. Liability of controller for certifying contract in excess of appropriation. Proviso.

6. Payments to be made on appropriation and warrant. Creation of debt by municipal department.

7. Controller to suggest plans for management of finances. Annual report. Items of report. Estimate of receipts and expenditures.

8. Vacancy, how filled. Term of successor. Bond. Salary.

9. Controllers may appoint probate clerks. Clerks to administer oaths.

23 May 1889.  
Art. IX., § 1.  
P. L. 302.

Election of city  
controller.  
Qualifications.  
Term.

To superintend  
fiscal concerns.

To audit and  
settle accounts.

To administer  
oaths.

Id. § 2.

Books of ac-  
counts to be  
kept, and  
what same  
to contain.

1. The qualified electors of each of said cities of the third class shall elect, at the municipal election, a city controller, who shall possess the qualifications herein prescribed for the city treasurer, and shall serve for the term of three years, and until his successor is duly elected and qualified. He shall superintend the fiscal concerns of the city, and shall manage the same in the manner required by the laws of this state and the ordinances and resolutions of the city councils in accordance therewith. He shall examine, audit and settle all accounts whatsoever in which the city is concerned, either as debtor or creditor, where provision for the settlement thereof is made by law, and where no such provision, or an insufficient provision has been made, he shall examine such accounts, and report to the city councils the facts relating thereto, with his opinion thereon. He shall have authority to administer oaths or affirmations in relation to any matter touching the authentication of every account with, or claim or demand against the city, but shall not be entitled to receive any fee therefor.

2. The city controller shall keep a regular set of books, in which shall be opened and kept as many accounts under appropriate titles as may be necessary to show separately and distinctly all the estates and property whatsoever, real and personal, vested in the city, all trusts in the care of the same, all debts due to and owing by the city, all the receipts and expenditures of the various departments of the city government, and all appropriations made by councils and the sums expended under the same respectively.

3. He shall have the supervision and control of the accounts of all departments,<sup>1</sup> bureaus and officers of the city<sup>2</sup> who shall collect, receive or disburse the public moneys, or who are charged with the management or custody thereof; shall audit their respective accounts, and may at any time require from any or all of them a statement in writing of any and all moneys or property of the city in their hands, or under their control; and he shall, immediately upon the discovery of any default, irregularity or delinquency report the same to the city councils. He shall likewise audit and report upon the accounts of any such officer upon the death, resignation, removal or expiration of the term of the said officer.

28 May 1889.  
Art. IX., § 8.  
Supervision of accounts of all fiscal departments.

Reporting of irregularities.  
Auditing of accounts.

4. He shall countersign all warrants upon the city treasurer,<sup>3</sup> the form whereof shall be prescribed by councils, and shall not suffer any appropriation made by the city councils to be overdrawn; but no warrant shall be countersigned unless there is money in the treasury to pay the same. In every case in which an appropriation shall be exhausted, and the object of which is not completed, he shall immediately report the fact to the city councils, and accompany such report with a statement of the moneys which have been drawn on such appropriation, and the particular purpose for which they were drawn. Whenever a warrant on the treasurer shall be presented to him to be countersigned, the person presenting the same shall, if the controller require, produce evidence:

Id. § 4.  
Countersigning of warrants.  
When incomplete appropriation exhausted, fact to be reported to councils.

(1) That the amount expressed in the warrant is due to the person in whose favor it is drawn.

What evidence to be produced to controller in countersigning warrants.

(2) That the supplies or the services for payment of which the warrant is drawn have been furnished or performed according to law and the terms of the contract.

5. Every contract involving an appropriation of money shall designate the item of appropriation on which it is founded, and the estimated amount of the expenditure thereunder shall be charged against such item, and so certified by the controller on the contract before it shall take effect as a contract, and the payments required by such contract shall be made from the fund appropriated therefor. If the controller shall certify any contract in excess of the appropriation made

Id. § 5.  
Contracts to designate item of appropriation and be certified.

<sup>1</sup> The controller cannot interfere with the discretion of other municipal departments; his authority as to such departments extends only to seeing that they do not exceed their appropriations, or apply them to purposes not within their proper scope. *Commonwealth v. Philadelphia*, 38 W. N. C. 426.

<sup>2</sup> The city controller has jurisdiction over the accounts of the school district. *Commonwealth v. Hitchens*, 18 Super. Ct. R. 849; 200 Pa. 508.

<sup>3</sup> The law is well settled that the controller is vested with certain judicial and discretionary powers, in the exercise of which, within the scope of his authority, he cannot be constrained by a writ of mandamus or otherwise. See *Runkle v.*

*Commonwealth*, 97 Pa. 328; *Dechert v. Commonwealth*, 113 Id. 229. But in the performance of mere ministerial duties he may be compelled to act, and the process of the court may be invoked to set him in motion. *Dechert v. Commonwealth*, *supra*; *Commonwealth v. George*, 148 Pa. 463; *Commonwealth v. Philadelphia*, 176 Id. 588. *Flick v. Harpham*, 3 Dist. R. 568; 13 Pa. C. C. R. 648. Where he refuses to approve a warrant he must assign his reasons. Such refusal cannot prejudice a just claim against the city, which may thereupon be sued for in the courts, by which the controller's objections are then reviewable. *Philadelphia v. Bickley*, 18 W. N. C. 53.

23 May 1882.  
Art. IX.

Liability of  
controller for  
certifying con-  
tract in excess  
of appropriation.

Proviso.

therefor, the city shall not be liable for such excess, but the controller and his sureties shall be liable for the same, which may be recovered in an action at law by the contracting party aggrieved. It shall be the duty of the controller to certify contracts for the payment of which sufficient appropriations have been made;<sup>1</sup> *Provided, however,* That this section shall not apply to contracts for public improvements heretofore or hereafter made, the cost of which has been or shall be assessed in whole or in part upon the properties abutting or benefited, except as to that part of such improvements directed to be paid out of an appropriation from the city treasury.<sup>2</sup>

23 May 1889.  
Art. IV., § 7.  
P. L. 238.

Payments to be  
made on appro-  
priation and  
warrant.

6. No money shall be paid out of the city treasury except upon appropriations made according to law, and on warrant<sup>3</sup> drawn by the proper officer in pursuance thereof, and no municipal department shall create any debt or make any contract except in pursuance of previous authority of law or ordinance.<sup>4</sup>

23 May 1889.  
Art. IX.  
§ 6. P. L. 304.

Controller to  
suggest plans  
for manage-  
ment of  
finances.

Annual report.

Items of report

7. The city controller shall, from time to time, and as often as he may deem expedient, or the city councils shall direct, suggest plans to the councils for the management and improvement of the city finances; and he shall make a report, verified by oath or affirmation, to the city councils at the first stated meeting in May in each year, of the public accounts of the city, and of the trusts in its care, exhibiting all the expenditures thereof, respectively, the sources from which the revenues and funds are derived, and in what manner the same have been disbursed; each account to be accompanied by a statement in detail of the several appropriations made by councils, the amount drawn on each appropriation, and the balance outstanding to the debit or credit of such appropriations at the close of the fiscal year, which report shall be published in pamphlet form. He shall also at the first stated meeting in January in each year present to councils a detailed statement of the estimated receipts, expenditures and liabilities of every kind for the ensuing year, with the balance of unexpended appropriations and all other information of value

Estimate of  
receipts and  
expenditures.

<sup>1</sup> The controller's duty in regard to the certification of contracts is purely ministerial; if the contract be in due form, and an appropriation therefor be regularly made, he may be compelled by mandamus to certify it. *Commonwealth v. George, supra*. See also *Black v. Chester City*, 175 Pa. 101; *Erie v. Moody*, 176 Id. 478; *Harriburg v. Shepler*, 7 Super. Ct. R. 491; 180 Pa. 374; *Harriburg v. Misk*, 14 Super. Ct. R. 496; *Commonwealth v. Brown*, 13 Dist. R. 53. But he cannot be compelled to countersign a warrant for a payment in settlement of litigation against the city where there is no formal ordinance of councils appropriating the money for the payment of the claim. *Commonwealth v. Gingrich*, 22 Pa. C. C. R. 244.

<sup>2</sup> The section amended as above by Act of May 16, 1901, § 24, P. L. 241.

<sup>3</sup> An action of debt will lie upon a city warrant properly drawn and countersigned. *Scranton v. Hyde Park Gas Co.*, 102 Pa. 382. It seems that in the absence of an ordinance providing that warrants shall draw interest, no interest is recoverable thereon. Id.

<sup>4</sup> This clause is a statutory expression of the purport of previous decisions. See *Philadelphia v. Flanigen*, 47 Pa. 21; *Mathews v. Philadelphia*, 93 Id. 147. Municipal officers have no general authority to bind the city; the authority of its agents is special. *Ross v. Philadelphia*, 115 Id. 222. But councils may adopt an unauthorized act done by such officers, if for the benefit of the city, and assume the debt so contracted. *Silsby Mfg. Co. v. Allentown*, 153 Id. 319.



as a basis for fixing the levy and tax rate for the next fiscal year.<sup>1</sup> 28 May 1889.  
Art. IX.

8. Any vacancy in the office of city controller shall be filled by the vote of a majority of the members elected to councils, in joint convention, and the person so chosen to fill the same shall serve until the first Monday of April succeeding the municipal election occurring at least one month after the happening of such vacancy, at which election a successor shall be elected for the unexpired term.<sup>2</sup> The city controller shall give a lawful bond to the city, with two or more sufficient sureties, to be approved by councils, in such sum as they may by ordinance direct, conditioned for the faithful discharge of his official duties, and shall receive a fixed annual salary, to be provided by ordinance. 14. § 7.  
Vacancy, how filled.  
Term of successor.  
Bond.  
Salary.

9. Controllers of the several cities of this commonwealth shall be and are hereby authorized to appoint, from among their employes, one person to be probate clerk, who shall have power to administer oaths or affirmations in all matters relating to accounts against said city. 15 June 1897.  
§ 1. P. L. 150.  
Controllers may appoint probate clerks. Clerks to administer oaths.

<sup>1</sup>The section amended as above by Act of May 16, 1901, § 25, P. L. 242.

<sup>2</sup>This provision supplies that of the

Act of May 8, 1876, P. L. 180, relative to filling vacancies in the office.

## Corporate Powers.

1. Reservation of corporate powers.
2. Corporate powers of cities of third class. How exercised.
3. Enumeration of additional corporate powers.
4. Power of taxation.
5. Additional power of taxation.
6. Poll tax.
7. License taxes on various businesses.
8. Power to borrow money. Increase of indebtedness. Limitation of debt.
9. Funding of indebtedness. When bonds to be payable. Rate of interest. Sale of bonds.
10. Sinking fund.
11. Laying out, opening, etc., of streets, alleys, etc. Vacation of same. Sidewalks, bridges and culverts. Cost, how provided for. How ordinance to be passed.
12. Construction of sewers.
13. Grading, paving, macadamizing and curbing of streets. How payment therefor to be provided. Assessments by foot front rule or according to benefits. Equitable reduction of frontage. Appointment of viewers. Majority in number or interest to petition. Unless councils pass ordinance by three-fourths vote. Publication to be made in certain cases. Mode of publication. Provision. Passage of ordinance to be conclusive evidence. Notice to be published prior to passage of ordinance. Assessments according to benefits.
14. Paving, curbing and repair of sidewalks. Upon failure of owners to comply with notice, work to be performed by city and cost thereof levied.
15. Debts and expenses of city.
16. Creation of offices and boards. Regulation of powers, duties and compensation of officers and boards. No salary to be increased or diminished. How boards or departments to be chosen. Provisions not to apply to water boards in certain cases.
17. Security from officers.
18. Removal of officers.
19. Removal of obstructions from side-

- walks and streets. Planting of shade trees. Basements and excavations.
20. Regulation of porches, bay-windows, etc. Boxes, bales, etc., on sidewalks.
21. Railroad bridges and crossings. Safety gates and flagmen. Regulation of speed of trains.
22. Night watch and police.
23. Fines and penalties. Imprisonment or labor on streets.
24. Lock-ups and watch-houses. Limit of detention therein.
25. Hospitals, prisons, work-houses and houses of correction. Erection of public buildings. Appropriation of lands therefor. Lands for poor farm. Assessment of damages for property taken.
26. Police regulations at squares, parks, depots, etc. Arrest of professional thieves.
27. Rewards for arrest of offenders.
28. License tax from theatres, circuses and public exhibitions. Restraint of immoral exhibitions.
29. Bathing in rivers adjoining city.
30. Coach and cab stands. Rate of charges for transportation.
31. Suppression of tippling shops, houses of prostitution, gaming, Sabbath desecration, etc.
32. Prevention of riots and disorderly assemblies. Discharge of fire-arms, fireworks, etc. Carrying concealed deadly weapons. Fast driving and dangerous amusements. Driving upon sidewalks.
33. Purchase and erection of market-houses and market-places. Market regulations. Market licenses.
34. Inspection and weighing of hay, grain, coal, etc. Designation of places for selling hay, coal and wood. Regulation of weights and measures.
35. Levees and ferries. Wharves and wharf lines. Improvement of channels.
36. Water courses, wells, cisterns, etc. Removal of encroachments upon streams.
37. Purchase of lands for public parks, and taxation therefor. Park regulations.

38. Pens, pounds, etc. Impounding of estrays. Taxation and destruction of dogs.  
39. Public health and removal of nuisances.

40. Quarantine regulations.

41. Purchase of fire apparatus. Regulation of fire department. Election of officers thereof.

42. Inspection of chimneys, boilers, etc. Transportation and storage of explosives.

43. Inspection of buildings. Appointment of building inspectors. Fixing of fire limits.

44. Lighting of streets and numbering of houses.

45. Exclusive right to supply gas or other

light. Contracts for supply of light. Limitation of contract.

46. Exclusive right to supply water. Maintenance of water works. Contracts for water supply. Limitation of contract.

47. Foundations and party walls. How party wall to be laid. First builder to be reimbursed.

48. Partition fences. How fences to be constructed.

49. Ordinances, etc., for good government and welfare of city. Penalties for violation of ordinances. Limitation. Imprisonment in default of payment.

23 May 1889.  
Art. V., § 1.  
P. L. 236.

Reservation of  
corporate  
powers.

Id. § 2.

Corporate  
powers of cities  
of third class.

1. The corporate powers, and the number, character, powers and duties of the officers of cities of the third class now in existence by virtue of the laws of this commonwealth, shall be and remain as now provided by law, except where otherwise provided by this act.

2. Every city of the third class within this commonwealth is hereby declared to be a body corporate and politic, and shall have perpetual succession, and shall have power

I. To sue and be sued.<sup>1</sup>

II. To purchase and hold real and personal property for the use of the city.<sup>2</sup>

III. To lease, and to sell and convey any real or personal property owned by the city, and to make such order respecting the same as may be conducive to the interests of the city.

IV. To make all contracts,<sup>3</sup> and do all other acts in relation to the property and affairs of the city necessary to the exercise of its corporate or administrative powers.

V. To have and use a corporate seal, and alter the same at pleasure; and every such seal shall have upon it the word "Pennsylvania," the name of the city, and the year of its original incorporation.

How exercised.

The powers hereby granted shall be exercised by the mayor and councils of such cities in the manner herein provided.

Id. § 3.

3. Every city of the third class, in its corporate capacity, is

<sup>1</sup> A public municipal corporation can only be sued in the courts of the county in which it is situated. *Potts v. Pittsburgh*, 14 W. N. C. 38; *Hecksher v. Philadelphia*, 20 Id. 52. It cannot be made a garnishee either in foreign or execution attachment. *Erie v. Knapp*, 29 Pa. 173. By Section 8 of the Act of April 21, 1858, P. L. 387, it is provided that "All laws requiring municipal corporations to enter bail, or to file affidavits of defence, and all laws inconsistent herewith are hereby repealed." That this provision is not repealed by the Practice Act of May 25, 1887, see *Malone v. Philadelphia*, 7 Pa. C. C. R. 613; 8 Id.

385; also *Bethlehem Water Co. v. S. Bethlehem Boro.*, 14 Dist. R. 720.

<sup>2</sup> A contract by the city to purchase real estate must be authorized by ordinance. *Fuller v. Scranton*, 18 W. N. C. 18.

<sup>3</sup> The validity of a contract with a municipality depends on the consent of its councils. *Water Co. v. Waymart Borough*, 4 Super. Ct. R. 211. The mayor's assent to the contract is also an essential prerequisite. *Commonwealth v. Lebanon*, 7 Dist. R. 163. All who contract with a municipal corporation must inquire into its power to make the contract: it is not enough that the latter be under the corporate seal. *O'Malley v. Borough*, 198 Pa. 525.

authorized and empowered to enact ordinances<sup>1</sup> for the following purposes, in addition to the other powers granted by this act:

<sup>23</sup> May 1880.  
Art. V.  
Enumeration of  
additional cor-  
porate powers.

4. I. To levy and collect taxes for general revenue purposes, not to exceed ten mills on the dollar in any one year, on all persons, real, personal and mixed property within the limits of said city<sup>2</sup> taxable according to the laws of the state of Pennsylvania for county purposes,<sup>3</sup> the valuation of such property to be assessed as hereinafter provided.<sup>4</sup>

Power of  
taxation.

5. II. To provide for the assessment and collection of taxes in addition to the above, not exceeding one per centum on the dollar upon the assessed valuation in any one year, on all persons, real and personal property, and all other matters and things within said city taxable for county purposes, for the payment of interest on bonded indebtedness, and for the payment of loans to support the government<sup>5</sup> and to make the necessary improvements in said city.

Additional  
power of  
taxation.

6. III. To impose a poll tax for general revenue purposes, not exceeding one dollar annually, on all male inhabitants above the age of twenty-one years.

Poll tax.

7. IV. To levy and collect a license tax<sup>6</sup> not exceeding one

License taxes  
on various  
businesses.

<sup>1</sup> Where it is prescribed that certain powers shall be exercised by ordinance, that method must be followed. *Fuller v. Scranton*, 18 W. N. C. 18. An ordinance is the proper form for city legislation of a permanent character, whilst an order or resolution is appropriate for such acts of councils as are temporary or ministerial only in their design. *Shaub v. Lancaster*, 156 Pa. 362. *Chester City v. Eyre*, 181 Id. 642. A resolution which is intended to have the force of an ordinance must be passed with the same formalities. *Kepner v. Commonwealth*, 40 Pa. 124; *Waln v. Philadelphia*, 99 Id. 330; *Borough of Verona's App.*, 108 Id. 83; *Howard v. Borough of Olyphant*, 181 Id. 191; *Seventh Street, Lebanon City*, 5 Dist. R. 591. See also *Commonwealth v. Diamond Nat'l B'k*, 9 Super. Ct. R. 118; *Central Valley R. R. v. Pittston*, 13 Dist. R. 675. No number of violations of an ordinance by a municipal officer will nullify it or establish a custom or usage which the law will recognize as of any validity. *Boyle v. Hazleton Borough*, 171 Pa. 167. Nor can the provisions of an ordinance be abrogated by the declarations of any of the committees of councils. *Chester City v. Eyre*, *supra*. Where a later ordinance creates a condition to which an earlier general ordinance becomes applicable, the two are in *pari materia* and are to be construed together. *Erie v. Griswold*, 5 Super. Ct. R. 132; 184 Pa. 435; see also *Erie v. Carey*, 12 Super. Ct. R. 584. The repeal of an ordinance under which private parties have acquired vested rights cannot oper-

ate to impair the contract obligations. *Same Case*, 184 Pa. 435.

<sup>2</sup> Obviously, the taxing power of a municipal corporation does not extend beyond its geographical boundaries. *Gilchrist's App.*, 109 Pa. 600.

<sup>3</sup> Under this authority cities may tax occupations. A tax of a sum certain may be imposed upon all occupations or different occupations may be classified, and a uniform occupation tax imposed upon each class. But such a tax based upon the amount earned by each individual in his occupation is unconstitutional, being in violation of Art. IX., § 1, requiring all taxes to be uniform upon the same class of subjects. *Banger's App.*, 109 Pa. 79.

<sup>4</sup> See title "Assessments," *ante*.

<sup>5</sup> See *Scranton v. Rail Road Co.*, 2 C. P. Rep. 1, 29.

<sup>6</sup> Such a tax may be lawfully imposed upon a specific business which has already paid a license to the state under existing laws; it must, however, be uniform upon the same class of business throughout the city. *Hadtner v. Williamsport*, 15 W. N. C. 138; *Allentown v. Gross*, 132 Pa. 319; *Comp. Altoona v. Stehle*, 8 Dist. R. 25. But, it seems, that under this clause councils may, in their discretion, classify merchants or others according to their gross sales, and graduate the tax according to such sales. *Williamsport v. Wenner*, 172 Pa. 173; *Commonwealth v. Clark*, 10 Super. Ct. R. 507; 195 Pa. 634. And it is not necessary that the tax be imposed upon all the businesses above enumerated. *Williamsport v. Wenner*, *supra*.

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hundred dollars each annually, on all auctioneers, contractors, druggists, hawkers, peddlers,<sup>1</sup> produce or merchandise vendors,<sup>2</sup> bankers,<sup>3</sup> brokers,<sup>4</sup> pawnbrokers, merchants of all kinds, persons selling or leasing goods upon instalments, grocers, confectioners, butchers,<sup>5</sup> restaurants, bowling alleys, billiard tables and other gaming tables, drays, hacks, carriages, omnibuses, carts, wagons, street railway cars, and other vehicles used in the city for hire or pay,<sup>6</sup> lumber dealers, including commission men and all persons who make a business of buying lumber for sale at wholesale or retail, furniture dealers, saddle or harness dealers, stationers, jewelers, livery or boarding stable keepers, real estate agents, agents of fire, life or other insurance companies,<sup>7</sup> market house companies, express companies or agencies, telegraph,<sup>8</sup> telephone,

<sup>1</sup> A municipal ordinance prohibiting peddling in the city limits without a city license is a valid exercise of the police power. *Titusville v. Brennan*, 143 Pa. 642; *Warren Borough v. Geer*, 117 Id. 207; *Brownback v. North Wales Borough*, 7 Dist. R. 324; 10 Super. Ct. R. 227; 194 Pa. 609; *New Castle v. Cutler*, 15 Super. Ct. R. 612; *Mechanicsburg Borough v. Koons*, 18 Id. 131. But it must be directed against the business and not against a class of persons engaged in the business; otherwise it is a trade regulation and invalid. *Sayre Borough v. Phillips*, 148 Pa. 482; *Shamokin v. Flannigan*, 156 Id. 43. See also *Wilcox v. Knoxville Borough*, 2 Dist. R. 721; *Commonwealth v. Wormser*, 7 Id. 318; *Commonwealth v. Hepner*, 22 Pa. C. C. R. 630. As to the definition of hawk and peddler, see *Commonwealth v. Gardner*, 133 Pa. 284; *Commonwealth v. Edson*, 2 Pa. C. C. R. 377; *Easton v. Kemmerer*, 3 Dist. R. 220; *Lancaster v. Reese*, 14 Id. 447; *Commonwealth v. Hunsicker*, Id. 544.

<sup>2</sup> An ordinance which discriminates between resident and non-resident merchants is unconstitutional. *Easton v. Easton Beef Co.*, 5 Pa. C. C. R. 68.

<sup>3</sup> Banks paying state tax and thereby exempted by law from local taxation are not taxable under this clause. *Oil City v. Trust Company*, 151 Pa. 454. See also *Gorley v. Bowlby*, 8 Pa. C. C. R. 17.

<sup>4</sup> Where a city has the power to tax brokers it may tax merchandise brokers or real estate brokers without taxing other classes of brokers; such tax is within the constitutional requirement of uniformity. *Pittsburgh v. Coyle*, 165 Pa. 61. Merchandise and real estate brokers are taxable for state revenue purposes under the Act of April 14, 1905, P. L. 161.

<sup>5</sup> This includes butchers who have their slaughter houses elsewhere, but who sell the meat within the city limits. *Harrisburg v. Deimler*, 19 Pa. C. C. R. 542; 6

Dist. R. 532, and see *Harrisburg v. Harris*, 2 Dauph. Co. R. 334.

<sup>6</sup> A local license tax by a municipality on hacks, carriages for hire, etc., is constitutional. *Washington Borough v. McGeorge*, 146 Pa. 248; *Kittanning Borough v. Montgomery*, 5 Super. Ct. R. 196. A tax of one dollar per year on each bicycle owned by a resident held unconstitutional. *Densmore v. Erie*, 7 Dist. R. 355. Under this clause a city has no authority to impose a license tax upon the delivery wagon of a non-resident milkman. *Reading v. Bitting*, 167 Pa. 21. As to license tax upon street railway cars, see *North Braddock Borough v. Traction Co.*, 8 Super. Ct. R. 233; *Erie v. Erie Electric Motor Co.*, 24 Id. 77.

<sup>7</sup> The similar provision of the Act of May 24, 1887, held to repeal that of the Act of April 4, 1873, prohibiting municipalities from imposing a license tax on insurance companies. *Aetna Ins. Co. v. Reading*, 119 Pa. 417.

<sup>8</sup> As to right to impose reasonable license tax on telegraph, telephone or electric light poles, see *Chester v. Western Union Telegraph Co.*, 154 Pa. 464; *Philadelphia v. Telegraph Co.*, 167 Id. 406; *Taylor Borough v. Central Pa. Telephone Co.*, 8 Dist. R. 92; *North Braddock Borough v. Telegraph Co.*, 11 Super. Ct. R. 24; *Kittanning Light, etc. Co. v. Kittanning Borough*, Id. 31; *Athens v. Telegraph, etc., Co.*, 9 Dist. R. 253; *New Hope Borough v. Telegraph Co.*, 202 Pa. 532; *Taylor Borough v. Postal Telegraph, etc., Co.*, 16 Super. Ct. R. 344; *Johnstown v. Central, etc., Telegraph Co.*, 23 Super. Ct. R. 381; *Schellsburg v. Western Union Telegraph Co.*, 26 Id. 343; *Kittanning Borough v. Same*, Id. 346. See the Act of April 17, 1905, P. L. 183, providing for the determination of disputes between municipal corporations and telegraph, telephone, etc., companies, as to reasonableness of license fees; title, "Telegraph and Telephone Companies."

steam heating,<sup>1</sup> gas, natural gas, water, electric light or power<sup>23</sup> May 1899.  
companies or agencies, or individuals furnishing communica-  
tion, light, heat or power by any of the means enumerated,  
and to regulate the collection of the same.<sup>2</sup> Art. V.

8. V. To borrow money on the credit of the city, and to <sup>Power to bor-</sup>  
pledge the credit and revenue thereof for the payment of the <sup>row money.</sup>  
same to an amount not exceeding two per centum upon the as-  
sessed value of the taxable property in said city, and, with the  
consent of the people of the said city, obtained at an election  
held under the provisions of the constitution and the general  
laws of this commonwealth, to increase the indebtedness of <sup>Increase of in-</sup>  
such city to an amount not exceeding in the aggregate seven <sup>debtedness.</sup>  
per centum upon the assessed valuation of the taxable prop- <sup>Limitation of</sup>  
erty therein. <sup>debt.</sup>

9. VI. To provide for the issuing of bonds, and for the ap- <sup>Funding of in-</sup>  
plication of bonds already issued by cities hereafter incorpo- <sup>debtedness.</sup>  
rated, for the purpose of funding any and all indebtedness  
now existing, or hereafter created, of the city, now due, or to  
become due; *Provided*, That said bonds shall be payable in <sup>When bonds to</sup>  
not less than five years, and not more than thirty years, from <sup>be payable.</sup>  
the date of their issue, and that the same shall bear interest <sup>Rate of in-</sup>  
at a rate not exceeding six per centum per annum,<sup>4</sup> with in- <sup>terest.</sup>  
terest coupons attached,<sup>5</sup> payable annually or semi-annually,<sup>6</sup>  
and the said bonds shall not be sold or exchanged for less than <sup>Sale of bonds.</sup>  
their par value.<sup>7</sup>

10. VII. To make provision for a sinking fund<sup>8</sup> to pay at <sup>Sinking fund.</sup>  
maturity the bonded indebtedness of the city, and to levy and  
collect taxes on all the taxable property in the city, in addition  
to all other taxes, for the purpose of paying the same, under  
and subject to the limitations and requirements of this act,  
and of the constitution and laws of this commonwealth.<sup>9</sup>

11. VIII. To lay out, open, widen,<sup>10</sup> straighten, alter, ex- <sup>Laying out,</sup>  
tend, improve, establish or re-establish grades of, and keep in <sup>opening, etc.,</sup>  
<sup>of streets,</sup>  
<sup>alleys, etc.</sup>

<sup>1</sup> See *Reading v. Steam Heat and Power Co.*, 20 Pa. C. C. R. 411.

<sup>2</sup> The clause amended as above (striking out the words in the first line, "for general revenue purposes") by Act of May 16, 1901, § 6, P. L. 228.

<sup>3</sup> For construction of the term of payment of a bond payable "in" a certain number of years, see *Allentown School District v. Derr*, 115 Pa. 439.

<sup>4</sup> A city has power to assume the payment of the state tax on its own bonds. *Fidelity Trust, etc., Company v. Scranton*, 102 Pa. 387.

<sup>5</sup> The payment of overdue coupons by the treasurer may be compelled by mandamus, although the money in his hands may have been appropriated by councils to other uses, provided the money thus withdrawn from the treasury is not abso-

lutely needed for the ordinary expenses of the city. *Williamsport v. Commonwealth*, 90 Pa. 498.

<sup>6</sup> The interest on municipal bonds is apportionable. *Wilson's App.*, 108 Pa. 344.

<sup>7</sup> This does not warrant the allowance of a commission to the purchaser of the bonds from the city at par. Such an arrangement is virtually a sale at less than par. Compensation paid to an agent for his services in effecting a sale of the bonds at or above par is not unlawful. *Whelen's App.*, 108 Pa. 162.

<sup>8</sup> See title "Sinking Fund," *post*.

<sup>9</sup> See, as to the application of such taxes, *Wilkesbarre's App.*, 116 Pa. 246.

<sup>10</sup> As to the measure of damages for widening a street, see *Larkin v. Scranton*, 162 Pa. 289.

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Vacation of  
same.

Sidewalks,  
bridges and  
culverts.

Cost, how pro-  
vided for.

How ordi-  
nance to be  
passed.

Construction  
of sewers.

Grading, pav-  
ing, macadam-  
izing and curb-  
ing of streets.

good order and repair, and in safe, passable condition,<sup>1</sup> any street, avenue, alley or lane, or any part thereof, within the city limits, or to vacate and discontinue the same<sup>2</sup> whenever deemed expedient for the public good; and to make sidewalks and construct and maintain bridges and culverts, and to provide for the cost thereof, either in whole or in part, from the general revenues of the city. No ordinance for the opening, widening, straightening, extending or vacating of any street, avenue, alley or lane, or parts thereof, shall be passed, except in the manner provided in clause ten of section three of article five, as hereinafter amended.<sup>3</sup>

12. IX. To construct and reconstruct sewers,<sup>4</sup> and to extend the same beyond the city limits whenever deemed necessary, and for the purpose of such construction or extension to take and occupy private lands and property, making compensation therefor to the owners thereof, as required by law.

13. X. To cause to be graded, paved<sup>5</sup> or macadamized any public street, lane or alley, or part thereof, which is now or may hereafter be laid out and opened in any of said cities, and the same set with curbstone, and to provide for the pay-

<sup>1</sup> Under this clause a city has the implied power to build a subway for electric wires. *O'Brien v. Erie*, 7 Dist. R. 491. A municipality is held to no higher measure of duty than that of keeping the highways and streets in a reasonably safe condition, having in view the ordinary requirements of the public. *Megargee v. Philadelphia*, 153 Pa. 340. Its liability for damages does not extend to the case of injuries occasioned by the negligence of an independent contractor. *Ginther v. Yorkville Borough*, 3 Super. Ct. R. 403; *Hookey v. Oakdale Borough*, 5 Id. 404. See also *Aiken v. Philadelphia*, 9 Id. 502. The duty to keep the entire street and sidewalks in the closely built portion of the city in perfectly safe condition for travel both by day and night, is not the rule as regards country roads within the corporation limits; it is sufficient if the central and ordinarily used parts of the latter be made conveniently passable. *Monongahela City v. Fisher*, 16 Pitts. Leg. Jour. 305. The care to be devoted to the condition of a street is to be measured by the public use. An alley is not required to be protected to the same extent as a public street, unless used in fact as such. *Musick v. Latrobe Borough*, 184 Pa. 375. See also *O'Malley v. Parsons Borough*, 191 Id. 612. The language used in the act in the text is a succinct summary of the obligation of the municipality with reference to the repair of the highways: the authorities on the subject of negligence are too numerous for reference in this connection.

<sup>2</sup> The authority of the legislature to invest municipal corporations with the power to vacate streets is not restricted by the constitution. *McGee's App.*, 114 Pa. 470. In the absence of statute there is no obligation on the part of the city to provide compensation for such vacation. *In Re Vacation of Centre Street*, 115 Pa. 247; *Paul v. Carver*, 24 Id. 207. The

Act of February 27, 1849, § 3, P. L. 90, prescribing that where a street or highway shall be lawfully vacated, the ground shall fall to the adjoining owners in the proportions originally contributed, was merely a re-enactment of the common law. *Denehey v. Harrisburg*, 2 Pears. R. 330, 331. See the Act of March 21, 1905, P. L. 46; title "Streets," *post*.

<sup>3</sup> See *infra* 13. The clause amended as above by Act of May 16, 1901, § 7, P. L. 228.

<sup>4</sup> See title "Sewers" and *Erie v. Russell*, 148 Pa. 384. A municipality is liable for injuries caused by negligent construction of a sewer, but not for errors of judgment in the selection of plans, location, etc., *Gift v. Reading*, 3 Super. Ct. R. 359; or in providing a sewer of a size adequate to the purpose contemplated. *Fair v. Philadelphia*, 88 Pa. 309; *Beafield v. Verona Borough*, 188 Id. 627, or for the insufficiency of a drain to carry off surface waters. *Pressman v. Borough*, 13 Super. Ct. R. 336; and see *Cooper v. Scranton*, 21 Id. 17; *Sigfried v. South Bethlehem Boro.*, 27 Id. 456. Where it adopts a natural stream as a sewer it must not permit it to be so obstructed as to become a nuisance. *Blizzard v. Danville*, 38 W. N. C. 225.

<sup>5</sup> The Act of May 16, 1891, P. L. 78 (see title "Streets"), is not inconsistent with this act. *Hand v. Fellows*, 148 Pa. 456; *Commonwealth v. George*, Id. 463. Macadamizing is an original paving under this act, and is within the rule which relieves abutting owners from liability for the cost of a subsequent paving. *Harrisburg v. Segelbaum*, 151 Pa. 172; *Boyer v. Reading*, Id. 185; *Leake v. Philadelphia*, 171 Pa. 125. See, however, for some judicial discriminations on this subject, *Philadelphia v. Eddleman*, 169 Id. 452; *Dick v. Philadelphia*, 197 Id. 467; and *Harrisburg v. Funk*, 200 Id. 348.

ment of the cost and expense thereof, in whole or in part, by the city or by the owners of real estate bounding and abutting thereon; which cost and expense, upon the abutting real estate, shall be assessed according to the foot front rule<sup>1</sup> or according to benefits,<sup>2</sup> as councils shall by ordinance determine. When the costs and expenses, or any part thereof, are to be paid for by the foot front rule, the city shall assess or cause to be assessed the said cost and expense upon the real estate abounding or abutting on the line of the improvement, by an equal assessment on said property, in proportion to the number of feet the same fronts on the respective street, lane or alley, or part thereof, to be improved; and the councils may provide for an equitable reduction from the frontage of lots at all street and other intersections, and at other places where, from the peculiar or the pointed shape of the lots, an assessment for the full frontage would be inequitable and unequal. When the costs and expenses of any grading, paving, macadamizing or other improvement of any street, lane or alley, or part thereof, is to be paid for by the real estate abutting as aforesaid, according to benefits, the same shall be assessed by viewers appointed by the court of common pleas, as is now or shall hereafter be provided by act of assembly. But no ordinance shall be passed providing for the paving, macadamizing, grading or other improvement of any street, avenue, lane or alley, or part thereof, or for the opening, widening, straightening, extending or vacating thereof, except upon the petition of a majority in number or of a majority in interest<sup>3</sup> of the owners of property abutting on the

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How payment  
thereof to be  
provided.

Assessments by  
foot front rule  
or according  
to benefits.

Equitable re-  
duction of  
frontage.

Appointment  
of viewers.

Majority in  
number or in-  
terest to peti-  
tion.

<sup>1</sup> It has been firmly established by a long line of judicial decisions in this state that the foot front rule is not applicable to suburban or rural property, and that the question as to whether the property is suburban or rural is for the jury. See in particular *Seeley v. Pittsburgh*, 82 Pa. 360; *Kelly v. Pittsburgh*, 85 Id. 170; *Craig v. Philadelphia*, 89 Id. 285; *Scranton v. Penna. Coal Co.*, 105 Id. 445; *Hand v. Fellows*, 148 Id. 456; *South Chester Borough v. Garland*, 162 Id. 91; *McKeesport v. Soles*, 165 Id. 628; *Same Case*, 178 Id. 363; *Reading v. O'Reilly*, 169 Id. 366; *Norristown v. Fornance*, 1 Super. Ct. R. 129; *Philadelphia v. Gorgas*, 180 Pa. 296. That the foot front rule is sustainable in all cases to which it applies, see *Harrisburg v. McPherran*, 200 Pa. 343; *Scranton v. Koehler*, Id. 126. While the cost of paving may be assessed on abutting property, the cost of keeping the street in repair must be borne by the city. *Williamsport v. Hughes*, 7 Lack. R. 87.

<sup>2</sup> The purpose of this provision is to enable a city to grade its streets stretching out into the rural parts of the city, and, where the situation of the properties along the street is such as to make it just to do so, to impose the cost of the

improvement on the property benefited. *Scranton v. Bush*, 160 Pa. 490. Such a power as is here conferred is well executed by a general ordinance prescribing the mode in accordance with the act, followed by a special ordinance authorizing the grading or paving of a particular street. *Huidekoper v. Meadville*, 83 Pa. 156. Councils may, by ordinance and resolution, refer bids for paving to a committee on streets, and empower such committee to enter into a contract for the work. *Reuting v. Titusville*, 175 Id. 512. They may enter into a contract for the original paving of a street and prescribe the conditions. *Williamsport v. Hughes*, 21 Super. Ct. R. 443.

<sup>3</sup> On the trial of a *sci. fa. sur* municipal lien for paving and grading, the questions whether the street designated in the petition is on defendant's land and whether a majority of property owners along the line of the improvement signed the petition are for the jury. *McKeesport Boro. v. Busch*, 166 Pa. 46. A landowner who petitions for the paving of a street is estopped from denying the power of councils to do the paving. *Harrisburg v. Baptist*, 156 Id. 526; *Beaver Borough v. Davidson*, 9 Super. Ct. R. 159.

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Unless councils  
pass ordinance  
by three-  
fourths vote.

Publication to  
be made in cer-  
tain cases.

Mode of publi-  
cation.

Proviso.

Passage of  
ordinance to be  
conclusive  
evidence.

Notice to be  
published prior  
to passage of  
ordinance.

Assessments ac-  
cording to  
benefits.

line of the proposed improvement,<sup>1</sup> to be verified by the affidavit of one or more of the petitioners (a majority in interest of owners of undivided interests in any one piece of property to be deemed and treated as one person, for the purpose of said petition), unless the ordinance for such improvement shall have been passed by a vote of three-fourths of all the members of each branch of councils, in which case councils may direct the improvement to be made at the cost of the owners without petition;<sup>2</sup> *Provided, however,* That no such ordinance ordering any street or alley or part thereof to be thus improved without a petition therefor, shall be finally passed in a less period than thirty days from the date of its introduction; and in the meantime copies of such ordinance shall be published in the official newspaper or newspapers of said cities, once a week for three consecutive weeks; *Provided, however,* That the requirements for such publication shall not preclude the amendment of any paving ordinance as to the kind of pavement with which any street or alley, or part thereof, is proposed to be paved. The passage of the ordinance providing for any of the aforesaid improvements, upon petition therefor, shall be conclusive of the fact that a majority in number of the persons owning or holding property on the line of the improvement, or that the persons owning a majority of the feet front thereon, as the case may be, have petitioned therefor; *Provided,* That no ordinance for any of the aforesaid purposes petitioned for, shall be passed in any branch of councils until notice of the improvement prayed for, with the names of the petitioners, shall have been given by publication in one or more newspapers published in the respective city, which notice shall be by at least one insertion in said newspaper or newspapers, and at least five days previous to the passage of the said ordinance by the branch in which it was first introduced. The cost and expense of any improvement, done and completed under an ordinance providing for the assessment of the cost and expense thereof under the foot front rule, may be assessed according to benefits upon the passage of an ordinance to that effect, which assessment according to benefits shall be made in like manner and with like effect as if the original ordi-

<sup>1</sup> It is not competent to assess the cost of grading, paving and curbing upon properties not situated upon the street to be improved, although within the neighborhood of the improvement. *Morewood Avenue*, 159 Pa. 20; *Fifty-fourth Street*, 165 Id. 8. Local assessments, which are a species of taxation, can be made only for improvements which confer peculiar local benefits upon the property which adjoins the improvement, and even then they cannot be made if the property has once before been subjected to such an assessment. *Morewood Avenue, supra*; *Hammett v. Philadelphia*, 65 Pa. 146; *Protestant Orphan Asylum's App.*, 111 Id. 185; *Williamsport v. Black*, 128 Id.

147; *Philadelphia v. Ehret*, 153 Id. 1. A local assessment for a general public benefit is unconstitutional. *Opening of Washington Avenue*, 69 Pa. 352; *Erie v. Russell*, 148 Id. 384; *Williamsport v. Lloyd*, 23 Pa. C. C. R. 604; 9 Dist. R. 735.

<sup>2</sup> This provision is not merely directory but is a limitation upon the power of councils. The city cannot recover the cost of paving from an abutting owner if the ordinance authorizing the improvement was not passed by the requisite number of votes. *Bradford v. Fox*, 171 Pa. 343. See in this connection the subsequent remedial Act of May 11, 1897, P. L. 48.



nance providing for the improvement had therein provided for such assessment.<sup>1</sup>

14. XI. To require owners of property abutting on any public street, lane or alley to construct, pave,<sup>2</sup> curb, repave, and recurb<sup>3</sup> the sidewalks, and keep the same in good repair along such property,<sup>4</sup> with such materials, at such grades, and under such regulations as may be prescribed by ordinance; and upon failure of such owners to comply therewith, upon notice, to authorize the same to be done by the city, and the expense thereof to be levied and collected from such owners, with costs, which amount shall be a lien upon such premises from the time of the commencement of the work, which date shall be fixed by certificate of the city engineer filed with the clerk, and may be collected by action at law, or such lien may be filed and proceeded in as herein provided in the case of municipal liens.<sup>5</sup>

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Upon failure of owners to comply with notice work to be performed by city, and cost thereof levied.

15. XII. To provide for the payment of the debts and expenses of the city, and to appropriate money therefor.

Debts and expenses of city.

16. XIII. To create any office, public board or department which they may deem necessary for the good government and interest of the city; to prescribe the powers thereof, and to regulate and prescribe the terms, duties and compensation of all such officers, and of all officers who are members of any public board or any department so created. But no ordinance shall be passed increasing or diminishing the salary

Creation of offices and boards.

Regulation of powers, duties and compensation of officers and boards.

<sup>1</sup> The original section of the Act of 1889 amended as above by the Act of March 30, 1903, P. L. 115.

<sup>2</sup> Paving, in the contemplation of the statutes, means the kind of paving that is customary. *Wister v. Philadelphia*, 80 Pa. 505, 111 Id. 604.

<sup>3</sup> Where curbstones have been properly set at the expense of the property owner, and they are in good order and repair, the expense of replacing them cannot be provided by assessment upon his property. *Wister v. Philadelphia*, 111 Pa. 604; *Reading v. Heilman*, 19 Super. Ct. R. 422. The same principle applies to the relaying of a pavement. *Phila. v. Henry*, 161 Pa. 38. *Comp. Oil City v. Marston*, 24 Pa. C. C. R. 645.

<sup>4</sup> Such authority as is here conferred is not exercisable by way of local taxation, but as a police regulation; wherefore an institution of purely public charity, exempt by statute from taxation, is not exempt from assessment for the cost of curbing. *Phila. v. Penna. Hospital*, 143 Pa. 367, and see *S. C.*, 134 Id. 171; *Philadelphia v. Weaver*, 14 Super. Ct. R. 293. The duty of keeping the sidewalks in repair rests primarily with the property owner. *Mintzer v. Hogg*, 192 Pa. 137, and the city is not liable for defects without actual or constructive notice of their existence. *Duncan v. Phila.*, 173 Id. 550. To impose the duty of repairing a pavement upon a landowner, it is not necessary that the pavement should be a dangerous public nuisance; if it is in bad condition and unsafe, the owner must repair it. *Phila. v. Cemetery Co.*, 147 Pa. 170, and see *Smith v. Kingston Boro.*, 120

Id. 357. The owner is liable over to the corporation where there has been a recovery against it of damages for personal injuries by reason of defect in the sidewalks. *Brookville v. Arthurs*, 152 Pa. 334; *Reading v. Reiner*, 167 Id. 41; *Chester v. Bank*, 9 Super. Ct. R. 517. But the municipality is not relieved from the duty of seeing that the street on which work is being done is in a reasonably safe condition while the improvements are being made by property owners pursuant to ordinance. *Trego v. Honeybrook Borough*, 160 Pa. 76; *Comp. Mills v. Phila.*, 42 W. N. C. 397 (S. C.). For various authorities as to the liability of a city for defects or obstructions in sidewalks, see *McNerney v. Reading*, 150 Pa. 611; *Feather v. Reading*, 155 Id. 187; *Lohr v. Phillipsburg*, 156 Id. 248; *Wyman v. Phila.*, 175 Id. 117; *Duncan v. Phila.*, 38 W. N. C. 82; *Smith v. East Mauch Chunk Boro.*, 3 Super. Ct. R. 495; *McClosky v. Dubois Boro.*, 4 Id. 181; *Manross v. Oil City*, 178 Pa. 276; *Bruck v. Phila.*, 181 Id. 588; *Fitzpatrick v. Darby Boro.*, 184 Id. 645; *Bauerle v. Phila.*, Id. 545; *Boyle v. Mahanoy City*, 187 Id. 1; *Rick v. Wilkesbarre*, 9 Super. Ct. R. 399; *Dutton v. Lansdowne Boro.*, 10 Super. Ct. R. 204; *Rushon v. Allegheny City*, 192 Pa. 574; *Kellow v. Scranton*, 195 Id. 134; *Lenich v. Beaver*, 199 Id. 420; *Rogers v. Williamsport*, Id. 450; *Gerland v. Wilkesbarre*, 212 Id. 151; *Gillard v. City of Chester*, Id. 338; *Becker v. Philadelphia*, Id. 379.

<sup>5</sup> The clause amended as above by Act of May 18, 1901, § 9, P. L. 231.

23 May 1889.  
Art. V.

No salary to  
be increased or  
diminished.

How boards or  
departments to  
be chosen.

Provisions not  
to apply to  
water boards  
in certain  
cases.

Security from  
officers.

Removal of  
officers.

or compensation of any officer, or of any member of any public board or department, after his or their election or appointment;<sup>1</sup> *Provided, however,* That in case of the creation of any public board or department, the members thereof shall, except where otherwise provided by this act, be elected or chosen by the select and common councils, in joint convention; but no two persons from the same ward shall serve on the same board at the same time; *Provided,* That the provisions of this section, as to the creation of any public board or department and prescribing the duties thereof, shall not apply to the creation of any board of commissioners of waterworks of any city wherein the title to the waterworks therein located is in the name of the commissioners of waterworks.<sup>2</sup>

17. XIV. To require from all officers and agents of the city, elected or appointed, lawful bonds and security for the faithful performance of their duties,<sup>3</sup> and no officer or agent required by law or ordinance to give bond as aforesaid shall be sworn into office or enter upon the duties thereof, until such bond shall have been duly approved by the proper authority.

18. XV. To provide for the removal of officers of the city whose offices are established by ordinance,<sup>4</sup> and whose removal is not otherwise herein provided for.

<sup>1</sup> This language is adapted from that of Art. III., § 13, of the constitution, and is therefore to receive the same interpretation. An officer of the city is one whose office is established by law or ordinance, for a fixed term, and who receives a stated salary paid by the city. To all such the above restriction as to the increase or reduction of salary applies. See *Devers v. York*, 156 Pa. 359; *Fox v. Lebanon County*, 4 Pa. C. C. R. 393; *Mulholland v. Flannery*, 11 Kulp 181. A mere employee, on the other hand, or one whose appointment is not provided for with reference to a fixed term, is not within the restriction. See *Bigley v. Bellevue Borough*, 158 Pa. 495. Members of the city police force held not to be within the above provision. *Russell v. Williamsport*, 9 Pa. C. C. R. 129, and see *Commonwealth v. Nichols*, 10 Kulp 193. The councils may abolish any office which they have been empowered by law or ordinance to create, and the incidental shortening of the term of the existing incumbent is not a diminution of his salary forbidden by the act. See *Donohugh v. Roberts*, 15 Phila. R. 144, as to the power of the legislature in this regard in view of the constitutional provision.

<sup>2</sup> The clause amended as above by Acts of June 9, 1891, P. L. 255, and May 16, 1901, § 10, P. L. 232.

<sup>3</sup> By the Act of May 2, 1901, P. L. 111, suits on official bonds of municipal officers, or bonds of contractors, in which a corporation or company is surety may be brought in the county in which the municipality is situate. An officer of the city

cannot bind the corporation beyond the scope of his authority, nor within it except in strict conformity therewith. *Malone v. Philadelphia*, 147 Pa. 416; *Lesley v. Kite*, 192 Id. 268. But the corporation may ratify, by ordinance subsequently passed, the unauthorized acts and contracts of its officers or agents which are within the corporate powers. *Milvale Borough*, 162 Pa. 374; *Shiloh Street*, 163 Id. 386; *Amberson Avenue*, 179 Id. 634; *Philadelphia v. Hays*, 93 Id. 72; *Chester City v. Eyre*, 181 Id. 642; *Benner v. Junker*, 190 Id. 423.

<sup>4</sup> Elective officers are removable only by the legislature. *Houseman v. Commonwealth*, 100 Pa. 222; *Removal of Officers*, 16 Pa. C. C. R. 305; and see *Neuls v. Scranton*, 211 Pa. 581. Article IV., Sec. 8, of the constitution, providing for the filling of vacancies in elective offices by the governor until the next general election does not apply to municipal officers, but only to those chosen at the November election. *Commonwealth v. Moir*, 7 Lackawanna R. 50. The Act of May 26, 1897, P. L. 106, prohibiting the discharge from public positions under the state or any county or city government of honorably discharged Union soldiers or sailors, or the abolition or curtailment of the emoluments of the office held by such during their term, except for "good, sufficient, reasonable or just cause," was held unconstitutional in *Brower v. Levan* (C. P. Schuylkill Co.), 7 Dist. R. 702; 21 Pa. C. C. R. 311, and *Commonwealth v. Rutherford* (C. P. Dauphin Co.), 8 Dist. R. 349; 22 Pa. C. C. R. 425.

19. XVI. To require the removal of all obstructions<sup>1</sup> from the sidewalks, curbstones, gutters, streets and street crossings, at the expense of the owners or occupiers of the ground fronting thereon, or at the expense of the person or persons placing the same there; and to regulate the planting and protection of shade trees in the streets, the building of cellar and basement ways, and other excavations through or under the sidewalks in said city.

23 May 1889.  
Art. V.

Removal of obstructions from sidewalks and streets.

Planting of shade trees.

Basements and excavations.

20. XVII. To make and establish such and so many uniform<sup>2</sup> rules and regulations as to them may seem expedient, for the better regulation of porches, porticoes, benches, doorsteps, railings, bulk, bay or jut windows,<sup>3</sup> areas, cellar doors and cellar windows, signs and sign posts, boards, poles or frames, awnings, awning posts, or other devices or things projecting over, under, into, or otherwise occupying the sidewalks or other portion of any of the streets, lanes or alleys, and in relation to boxes, bales, barrels, hogsheads, crates or articles of merchandise, lumber, coal, wood, ashes, building materials, or any other article or thing whatsoever placed in or upon any of the said sidewalks, or other portion of said streets, lanes or alleys, and also to prevent and remove all encroachments thereon.<sup>4</sup>

Regulation of porches, bay-windows, etc.

Boxes, bales, etc., on sidewalks.

21. XVIII. To provide for, and require the construction and maintenance of bridges,<sup>5</sup> or other crossings over or under railroad tracks, and to enter into contracts with railroad companies for the construction and maintenance of the same; to

Railroad bridges and crossings.

<sup>1</sup> In the absence of legislative authority, a city cannot license the use of the streets or sidewalks for private occupation. A property owner has no control over the abutting streets or sidewalks except to require that they be kept free from obstruction. See *Goodwin v. Hamilton*, 6 Dist. R. 705, 706. The rights of the public are the supreme consideration, and the provisions of the above and the succeeding clause of this section prescribe in unequivocal terms the duty of the city authorities to see that those rights are protected and enforced. Any private occupation or obstruction of a street is a public nuisance. *Commonwealth v. McNaugher*, 131 Pa. 55; *Commonwealth v. Allen*, 148 Id. 358, and Comp. *Norristown v. Moyer*, 67 Pa. 355; *Philadelphia v. Sheppard*, 158 Id. 347. But, obviously, the temporary use of a part of a street or sidewalk may be licensed for a lawful purpose, such, for instance, as to lay water or other pipes. *Smith v. Simmons*, 103 Pa. 32; *Susquehanna Depot v. Simmons*, 112 Id. 384; *McDevitt v. Gas Co.*, 160 Id. 367; *Prevost v. Water Co.*, 162 Id. 275; or for the erection of buildings, or the making of necessary repairs. *Mills v. Philadelphia*, 187 Id. 287. It would be needless to multiply citations upon a branch of the law relative to public high-

ways which is so well settled as the foregoing.

<sup>2</sup> Uniformity is an essential requisite of licenses to erect structures beyond the building line, and such privileges must be conferred by ordinances of general application. *Reimer's App.*, 100 Pa. 182; *Commonwealth v. Harris*, 10 W. N. C. 10; *Livingston v. Wolf*, 136 Pa. 519; *Gitt v. Hanover Borough*, 4 Dist. R. 606.

<sup>3</sup> As to restrictions upon bulk, bay or oriel windows, see *Hess v. City of Lancaster*, 4 Dist. R. 737; *Commonwealth v. Francy*, 21 Pa. C. C. R. 384.

<sup>4</sup> See the Act of April 20, 1905, P. L. 227; title "Rubbish," post.

<sup>5</sup> The Act of March 26, 1903, P. L. 71, authorizes cities to construct viaducts or bridges over streets, railroads or private property, either wholly or partly within the city limits, to be used as public highways, and to contract with the county commissioners, railway companies or others for the construction of the same, and prescribes the mode of proceeding. The Act of March 27, 1903, P. L. 74, amending the general road law, authorizes county commissioners to aid in building bridges in cities of the third class, in cases where the same are not to be entered of record as county bridges.

28 May 1899.  
Art. V.

Safety gates  
and flagmen.

Regulation of  
speed of trains.

Night watch  
and police.

Fines and  
penalties.

Imprisonment  
or labor on  
streets.

Lock-ups and  
watch-houses.

Limit of deten-  
tion therein.

Hospitals, pri-  
sons, work-  
houses and  
houses of cor-  
rection.

require the erection of safety gates,<sup>1</sup> and the placing of flagmen at the intersection of railroads with public streets; to forbid the obstruction of the said crossings by locomotives or railroad cars,<sup>2</sup> and also to make reasonable regulations concerning the rate of speed at which locomotives, cars or trains shall pass upon or across the streets, within the built-up portions of the city.<sup>3</sup>

22. XIX. To establish and maintain night-watch and police, and define the duties of the same.

23. XX. To regulate the police of the city, and to impose fines, forfeitures<sup>4</sup> and penalties<sup>5</sup> for the violation of any ordinance, and provide for the recovery and collection of the same; and, in default of payment, to provide for confinement in the city or county prison,<sup>6</sup> or to hard labor upon the streets, or elsewhere, for the benefit of the city.

24. XXI. To provide for the erection or purchase of lock-ups or watch-houses in some convenient part of the city, for the detention and confinement of vagrants and persons arrested by the police officers, until the persons so arrested can be taken before the proper magistrate for hearing, and committed to prison or discharged; but no person shall be detained therein for a longer time than twenty-four hours, except upon the order of a magistrate legally authorized, who may commit such person for further hearing.

25. XXII. To erect or purchase, establish and maintain hospitals,<sup>7</sup> prisons, work-houses and houses of correction for juvenile<sup>8</sup> or other offenders, and to prescribe regulations for

<sup>1</sup> As to rights of adjoining owner in case of erection of safety gates, see *Rosenbaum v. Phila. & Reading R. R. Co.*, 19 Pa. C. C. R. 666; and with reference to the requiring the erection of watch-houses, the placing of watchmen, signals, etc., at crossings, by railroad companies, *Wilson v. Phila. & Reading R. R. Co.*, 5 W. N. C. 185; *Commonwealth v. Phila., etc., R. R. Co.*, 26 Pa. C. C. R. 293; 23 Super. Ct. R. 205; *Hasleton v. Lehigh Valley R. R. Co.*, 11 Dist. R. 644.

<sup>2</sup> See the Act of March 20, 1845, P. L. 191, prohibiting the obstruction of street crossings by railroads; title "Railroads."

<sup>3</sup> Such regulations are a legitimate exercise of the police power of a city. They may extend to places not on the lines of streets, and are not confined to street crossings. *Penna. Company v. James*, 81\* Pa. 194. As to the relevancy of an ordinance limiting the rate of speed at which railroad trains may be run in cities, to the question of negligence on the part of a company exceeding that limit, see *Lederman v. Penna. Railroad Company*, 165 Pa. 118.

<sup>4</sup> Forfeiture of goods cannot be prescribed as a part of the penalty for the violation of an ordinance unless expressly authorized by statute. *Phillips v. Allen*, 41 Pa. 481.

<sup>5</sup> The maximum penalty limited to one hundred dollars by Cl. 46 of this section, *infra*. Money found upon the person of

a prisoner arrested for intoxication, may, it seems, be appropriated by the magistrate to the payment of the fine. *McCann v. Barr*, 19 Pa. C. C. R. 669; 6 Dist. R. 721.

<sup>6</sup> As to liability of the county to pay the costs of arresting and committing vagrants, or drunk and disorderly persons discharged from the county prison who are unable to pay them, see *Northampton County v. West*, 28 Pa. 173; *Fleck v. Dauphin County*, 1 Pears. R. 220; *Sciders v. Franklin County*, 6 Dist. R. 787. By the Act of March 28, 1905, P. L. 61 (see title "Fines and Penalties"), the cost of maintenance in the county jail of prisoners committed in default of payment of fines is to be borne by the city.

<sup>7</sup> The Act of April 20, 1899, P. L. 60, prohibiting the establishment of any additional hospital, pesthouse or burial-ground in the built-up portions of cities, was repealed by the Act of January 28, 1903, P. L. 3.

<sup>8</sup> See the Act of April 23, 1903, P. L. 274, defining the powers of the courts of quarter sessions with reference to the care, treatment and control of dependent, neglected, incorrigible and delinquent children under the age of sixteen years. By the Act of March 26, 1903, P. L. 66, no child under the age of sixteen years can be committed by any magistrate to a reformatory institution: such commitment must be made by the court of quarter sessions.

the government thereof, and also to erect all public buildings<sup>1</sup> necessary for the use of the city and of any department thereof; to purchase or take, use and occupy private lands, upon which to erect any of the said buildings; to purchase, take, use and occupy, within the limits of the respective city, or within the county adjacent thereto, private lands, upon which to establish and maintain a hospital or hospitals, for the treatment and separation of persons suffering with contagious and infectious diseases; to purchase or take, use and occupy, within the limits of such city, or within the county adjacent thereto, private lands, upon which to establish and maintain a poor-farm, with all necessary and convenient buildings and appliances, where the city may support and maintain such poor persons as such city is by law required to support and maintain; and the damages accruing by reason of the acquisition of any private property, for the purposes aforesaid, shall be compensated in the manner now, or which may be hereafter, provided by law for the ascertainment and payment of damages for private property taken for public uses.<sup>2</sup>

<sup>23</sup> May 1889.  
Art. V.

Erection of  
public build-  
ings.

Appropriation  
of lands  
therefor.

Lands for poor  
farm.

Assessment of  
damages for  
property taken.

26. XXIII. To establish and enforce suitable police regulations for the protection of persons and property at public squares, parks, depots, depot-grounds, and other places of public resort, and for the arrest and commitment of professional thieves.<sup>3</sup>

Police regula-  
tions at  
squares, parks,  
depots, etc.

Arrest of pro-  
fessional  
thieves.

27. XXIV. To offer rewards<sup>4</sup> for the arrest and conviction of persons guilty of capital or other high crimes within the city; but no policeman shall be entitled to receive any share thereof.<sup>5</sup>

Rewards for  
arrest of of-  
fenders.

28. XXV. To license and collect a license tax from all skating rinks, operas, theatres, concerts, shows, circuses, menageries and all kinds of public exhibitions for pay (except those for religious, educational or charitable purposes), to regulate the same, and to restrain all exhibitions of indecent or immoral character.<sup>6</sup>

License tax  
from theatres,  
circuses and  
public exhibi-  
tions.

Restraint of  
immoral ex-  
hibitions.

29. XXVI. To regulate the time and place of bathing in the rivers and other public water in and adjoining said city.

Bathing in  
rivers adjoining  
city.

30. XXVII. To establish stands for coaches, cabs, omnibuses, carriages, wagons and other vehicles for hire, and to

Coach and  
cab stands.

<sup>1</sup> See *Newell v. Bradford City*, 18 Pa. C. C. R. 465.

<sup>2</sup> The section amended as above by the Act of March 30, 1903, P. L. 115. See *Allentown v. Wagner*, 27 Super. Ct. R. 485. The Act of March 26, 1903, P. L. 63, authorizes cities to condemn real estate for use in the erection of municipal buildings, hospitals, water works, etc., and provides a method for the assessment of damages.

<sup>3</sup> The Act of March 13, 1862, P. L. 113, authorizing the arrest and summary conviction of professional thieves in Philadelphia, was extended by various local acts to the cities of Allegheny, Lancaster, Harrisburg, Pittsburgh and Reading. The act was held to be constitutional in *Byers v. Commonwealth*, 42 Pa. 89. See the Act

of June 7, 1901, P. L. 492; title "Professional Thieves," *post*.

<sup>4</sup> A resolution authorizing the mayor to offer a reward for the arrest and conviction of incendiaries is only binding upon the city for a reasonable time, having relation to the occasion which led to its passage. *Shaub v. Lancaster*, 156 Pa. 362.

<sup>5</sup> See title "Police" as to the acceptance of rewards by policemen in certain cases.

<sup>6</sup> The clause amended as above by Act of May 16, 1901, § 11, P. L. 233. That a municipality cannot delegate to its chief executive legislative power in connection with the issuance of a license fee for public exhibitions, see *Commonwealth v. Hallam*, 25 Pa. C. C. R. 471.

23 May 1886.  
Art. V.

Rate of  
charges for  
transportation.

Suppression of  
tippling shops,  
houses of pro-  
stitution, gam-  
ing, Sabbath  
desecration,  
etc.

Prevention of  
riots and dis-  
orderly as-  
semblies.

Discharge of  
fire-arms, fire-  
works, etc.

Carrying con-  
cealed deadly  
weapons.

Fast driving  
and dangerous  
amusements.

Driving upon  
sidewalks.

Purchase and  
erection of  
market-houses  
and market-  
places.

Market regu-  
lations.

Market  
licenses.

enforce the observance and use thereof, and to fix the rates and prices for the transportation of persons and property from one part of the city to another.

31. XXVIII. To restrain, prohibit and suppress tippling shops, houses of prostitution, gambling houses, gaming, cock or dog fighting, and other disorderly or unlawful establishments or practices, desecration of the Sabbath day, commonly called Sunday, and all kinds of public indecencies.<sup>1</sup>

32. XXIX. To prevent and restrain riots, routs, noises, disturbances, or disorderly assemblies in any street,<sup>2</sup> house or place in the city; to regulate, prevent and punish the discharge of firearms, rockets, powder, fireworks,<sup>3</sup> or any other dangerous combustible material in the streets, lots, grounds, alleys, or in the vicinity of any buildings; to prevent and punish the carrying of concealed deadly weapons; to arrest, fine, or set at work on the streets or elsewhere, all vagrants found in said city; to prevent and punish horse-racing, fast driving or riding in the streets, highways, alleys, bridges or places in the city, and all games, practices or amusements therein likely to result in danger or damage to any person or property, and to prevent and punish the riding or driving of horses, mules, oxen, cattle, or other teams, or the passage of any vehicle drawn thereby, over, upon or across sidewalks, and to regulate the passing of the same through the public streets.

33. XXX. To purchase and own grounds for, and to erect and establish market-houses and market-places, for which latter purpose parts of any street or sidewalk may be temporarily used, and to provide and enforce suitable general market regulations; to contract with any person or persons, or association of persons, companies or corporations for the erection and regulation of market-houses and market-places, on such terms and conditions, and in such manner as the councils may prescribe, and raise all necessary revenue therefor, as herein provided; and also to levy and collect a license tax from every person or persons who may be authorized by councils to oc-

<sup>1</sup> A municipal corporation may, in the exercise of the police power, be authorized to punish by summary conviction offences indictable under the state law, but which are also offences against the municipal government, such as keeping a bawdy house or selling intoxicating liquors on Sunday. *Morgan v. Commonwealth*, 13 Pitts. Leg. Jour. 14. Profane swearing, if committed in a public place, is indictable. *Commonwealth v. Sinn*, 158 Pa. 22; and the offence would doubtless fall within the purview of the clause in the text. An ordinance prohibiting the placing of advertisements, handbills, circulars or waste paper in the vestibules of houses held to be a valid exercise of the police power. *Philadelphia v. Brabender*, 201 Pa. 674, and see *Bryan v. City of Chester*, 212 Id. 259. See the Acts of April 18, 1905, P. L. 202, providing for the punishment of male frequenters of bawdy

houses, and Act of same date, P. L. 212, prohibiting the presence of minors under the age of eighteen in pool or billiard rooms, bowling saloons or ten-pin alleys.

<sup>2</sup> See *Wilkesbarre v. Garabed*, 11 Super. Ct. R. 355 ("Salvation Army" processions).

<sup>3</sup> See *Heidenwag v. Philadelphia*, 168 Pa. 72; *Homer v. Commonwealth*, 15 W. N. C. 337. The Act of June 10, 1881, P. L. 111, makes it a misdemeanor to sell to any person under sixteen years of age fire-arms, gunpowder, toy cannon, pistols, etc., and the Act of June 11, 1885, P. L. 111, prohibits the manufacture and sale in this state of toy deadly weapons. See also the Acts of June 19, 1901, P. L. 577, prohibiting the manufacture or sale of fire crackers containing dynamite, etc. March 24, 1905, P. L. 49 (other high explosive crackers or ammunition), and title "Toy Guns," *post*.

cupy any portion of the streets or sidewalks for temporary public market purposes. 23 May 1880.  
Art. V.

34. XXXI. To regulate the weighing and measuring of every commodity sold in the city in all cases not otherwise provided by law; provide for and regulate the inspection and weighing of hay,<sup>1</sup> grain and coal, and the measuring of wood and fuel to be used in the city, and to designate the place or places of the same, and to regulate and prescribe the place or places for exposing for sale hay, coal and wood, and to demand and receive reasonable fees for inspection, weighing and measuring as aforesaid, and for the regulation and stamping of weights and measures. Inspection and weighing of hay, grain, coal, etc.  
  
Designation of places for selling hay, coal and wood.  
  
Regulation of weights and measures.

35. XXXII. To provide for the construction and maintenance of levees and ferries within the jurisdiction of any such city or within the limits thereof; to erect wharves on navigable waters adjacent to the city, regulate the use thereof, collect wharfage and establish wharf and dock lines; and to provide for protection against floods, by constructing and maintaining dikes or embankments along, and by removing obstructions from and deepening the channel of, rivers and streams flowing through or adjacent to the city.<sup>2</sup> Levees and ferries.  
  
Wharves and wharf lines.  
  
Improvement of channels.

36. XXXIII. To establish and change the channels, beds and mouths of water-courses<sup>3</sup> through lands, marshes or waters within or adjacent to the city; to crib, wall and cover them over, and to prevent and remove obstructions therefrom at the expense of those causing the same; to establish, make and regulate public wells, cisterns, aqueducts and reservoirs of water, and to provide for filling the same; to establish the lines of banks of streams of water which pass through or along the boundary of such city, and by proceeding at law or equity to prevent and remove all such encroachments on the banks of streams and water-courses as threaten, will or do injure said city or the property therein.<sup>4</sup> Water courses, wells, cisterns, etc.  
  
Removal of encroachments upon streams.

37. XXXIV. To purchase, by and with the consent of a majority of the qualified electors obtained at an election held therefor, at a time and place to be fixed by councils, lands and premises for public parks, and to levy and collect such special taxes as may be necessary to pay for the same; and to make Purchase of lands for public parks and taxation therefor.  
  
Park regulations.

<sup>1</sup> The Act of April 11, 1901, P. L. 77, prescribes the manner in which baled hay and straw shall be bound and marked.

<sup>2</sup> The clause amended as above by Act of May 16, 1901, § 12, P. L. 233. See the Act of May 26, 1893, P. L. 139, authorizing cities to appropriate private property for the construction of piers, abutments, fills, slopes and approaches for bridges crossing rivers within the corporate limits thereof, and providing the manner in which compensation shall be made.

<sup>3</sup> The Act of April 28, 1899, P. L. 74, authorizing cities and boroughs to vacate, change, alter or relocate the course or channel of any creek, run or natural wa-

terway, other than navigable streams, and providing for the assessment of damages and collection of benefits arising therefrom, was repealed, so far as concerns the procedure for enforcement of the lien, by the Act of June 4, 1901, § 42, P. L. 402. A municipality may not by ordinance convert a natural running stream into a common sewer. *Commonwealth v. Yost*, 11 Super. Ct. R. 328. That a municipal corporation is liable to an abutting owner for diverting the flow of surface water on to his property, see *Torrey v. Scranton*, 133 Pa. 173.

<sup>4</sup> The clause amended as above by Act of May 16, 1901, § 13, P. L. 233.

- 23 May 1889.  
Art. V. appropriations for the improvement, and regulations for the government of parks owned or controlled by the city.
- Pens, pounds, etc. 38. XXXV. To provide for the erection of all needful pens, pounds and buildings within or without the city limits, appoint keepers thereof, and to regulate or prohibit the running at large of cattle, hogs, horses, mules, sheep, goats, dogs or other animals, and to cause such as may be running at large to be impounded and sold to discharge the costs and penalties provided for the violation of such prohibitions, and the expenses of impounding and keeping the same, and of such sale; to regulate and provide for taxing the owners and harborers of dogs, and to destroy dogs found at large contrary to any ordinance.<sup>1</sup>
- Impounding of estrays.
- Taxation and destruction of dogs. 39. XXXVI. To make regulations to secure the general health of the inhabitants, and to remove and prevent nuisances.<sup>2</sup>
- Public health and removal of nuisances.
- Quarantine regulations. 40. XXXVII. To make all necessary orders and regulations to prevent the introduction of contagious or pestilential diseases into the city; to enact quarantine laws for that purpose, and to enforce the same within five miles of the city limits.
- Purchase of fire apparatus. 41. XXXVIII. To purchase fire engines, hooks, ladders, trucks, fire alarms and other apparatus for the extinction of fires; to organize a fire department, with or without pay; to make the necessary appropriations for the maintenance of the same, and to prescribe rules and regulations for the government of the officers and companies belonging thereto; and if a paid department, to provide by ordinance for the election or appointment of the officers and companies belonging thereto.<sup>3</sup>
- Regulation of fire department.
- Election of officers thereof.
- Inspection of chimneys, boilers, etc. 42. XXXIX. To regulate the construction and inspection of fire-places, chimneys, stoves, stove-pipes, ovens, boilers,<sup>4</sup> kettles, forges, or any apparatus used in any building, manu-

<sup>1</sup> The Act of March 27, 1903, P. L. 100, provides for the quarantining, muzzling and destruction of rabid dogs by order of the State Live Stock Sanitary Board. The authority of cities or boroughs in such cases is not thereby annulled.

<sup>2</sup> See *Board of Health* (McKeesport), 6 Dist. R. 660; *O'Brien v. Erie*, 20 Pa. C. C. R. 337; *Kussel v. Erie*, 8 Dist. R. 105. A municipal corporation is itself answerable in an action for maintaining a nuisance. *Briegel v. Philadelphia*, 135 Pa. 451; and its authorities may be indicted in their corporate capacity for neglecting to abate public nuisances. *Commonwealth v. Bredin*, 165 Id. 224. Councils cannot declare anything a nuisance except it be detrimental to the public health, or a public inconvenience. *Allegheny v. Heyl*, 9 Pitts. Leg. Jour. 70.

<sup>3</sup> See, as to claim of a chief engineer of a volunteer fire department elected by the companies composing the same, to pay from the city, *Hofford v. Allentown*, 5 Pa. C. C. R. 299; also *Feber v. Scranton*, 5

Luz. L. T. (N. S.) 121. By Sec. 2 of the Act of June 28, 1895, P. L. 410, one-half of the net amount received from the two per cent. state tax paid upon premiums by foreign insurance companies is directed to be distributed by the state treasurer to city and borough treasurers upon the basis of the amount of tax paid by such companies doing business within such cities and boroughs, as shown by the insurance commissioner's report. The purpose is not expressed in the act, but it is understood to be to provide a fund for the relief of disabled firemen. See *Commonwealth v. Barker*, 211 Pa. 610. By the amendment of April 20, 1905, P. L. 229, its provisions were extended to townships of the first class.

<sup>4</sup> See the Act of April 4, 1905, P. L. 102, providing a system of licensing stationary boiler engineers in cities of the second and third classes. By section 14 the operation of the act in cities of the third class is made contingent upon the creation by councils of the office of boiler inspector.



factory or business, and to order the suppression or cleaning thereof when deemed necessary for the prevention of fires; to regulate or prohibit the manufacture, sale, storage or transportation of inflammable or explosive substances within the city, and to prescribe limits within which no dangerous, obnoxious or offensive business shall be carried on.<sup>1</sup>

23 May 1889.  
Art. V.

Transportation  
and storage of  
explosives.

43. XL. To provide a system for the inspection of buildings to insure their structural or sanitary safety and incombustibility, and for the appointment of one or more building inspectors; to prescribe limits within which buildings shall not be constructed, reconstructed, enlarged, or additions made thereto, or into or within which they or any of them shall not be removed, except the same be of incombustible materials, with fire-proof roof; and any building erected, reconstructed, enlarged, or having additions made thereto, or removed into or within such limits contrary to the provisions of any ordinance forbidding the same, shall be a public nuisance, and abatable as such, and may be restrained by injunction.<sup>2</sup>

Inspection of  
buildings.

Appointment  
of building  
inspectors

Fixing of fire  
limits.

44. XLI. To provide for and regulate the lighting of the streets with gas or electric lights, or light by other means,<sup>3</sup> and to require the numbering of houses.

Lighting of  
streets and  
numbering of  
houses.

45. XLII. To have the exclusive right at all times to supply the city with gas or other light, and such persons, partnerships and corporations therein as may desire the same, at such prices as may be agreed upon,<sup>4</sup> and also to have at all times the unrestricted right to make, erect and maintain the necessary buildings, machinery and apparatus for manufacturing and distributing the same, or, in territory not supplied with light, to make contracts with and authorize any person, company or association so to do, and to give such person, company, or association the privilege of supplying gas or other

Exclusive right  
to supply gas  
or other light.

Contracts for  
supply of light.

Limitation of  
contract.

<sup>1</sup> The power to pass such ordinances being discretionary with councils, the city is not liable, where it has not exercised the power, in an action by a party injured by the combustion of a manufactory of fireworks. *McDade v. Chester City*, 117 Pa. 414.

<sup>2</sup> The clause amended as above by Acts of May 16, 1901, § 14, P. L. 234, and March 30, 1903, § 3, P. L. 119. See, as to the constitutionality and construction of ordinances prohibiting the erection of frame buildings and ordering their removal, *Fields v. Stokley*, 99 Pa. 306; *Klinger v. Bickel*, 117 Id. 323, and as to the enforcement of the same by injunction, *Williamsport v. McFadden*, 15 W. N. C. 269; *Contas v. Bradford*, 206 Pa. 291.

<sup>3</sup> Where a city provides properly constructed and reasonably safe streets it is not bound, in the absence of statutory

command or charter duty, to illuminate them. *Canavan v. Oil City*, 183 Pa. 611; *Horner v. Philadelphia*, 194 Id. 542. The lighting of its streets is not part of its municipal duty. *Baily v. Philadelphia*, 184 Id. 594. A vote to increase the municipal indebtedness for the purpose of establishing an electric light plant is not a bar to the right to enter into a contract for lighting the streets. *Seitzinger v. Electric Co.*, 187 Pa. 539.

<sup>4</sup> The legislature has the constitutional power to authorize a municipal corporation to manufacture electricity for the use of the inhabitants of the municipality. *Linn v. Chambersburg Borough*, 160 Pa. 511. As to effect of a grant by a city to a company of the right to supply light on the reserved right of the city, see *Titusville Electric, etc., Co. v. Titusville*, 196 Pa. 3.

23 May 1889. light as aforesaid for any length of time not exceeding ten  
Art. V. years.<sup>1</sup>

Exclusive right  
to supply  
water.

Maintenance of  
water works.

Contracts for  
water supply.

Limitation of  
contract.

Foundations  
and party  
walls.

How party  
wall to be  
laid.

First builder to  
be reimbursed.

Partition  
fences.

How fences to  
be constructed.

46. XLIII. To have the exclusive right<sup>2</sup> at all times to supply the city with water, and such persons, partnerships and corporations therein as may desire the same, at such prices as may be agreed upon, and for that purpose to have at all times the unrestricted right to make, erect and maintain all proper works, machinery, buildings, cisterns, reservoirs, pipes and conduits for the raising, reception, conveyance and distribution of water, or, in territory not supplied with water, to make contracts with and authorize any person, company, or association so to do,<sup>3</sup> and to give such person, company, or association the privilege of furnishing water as aforesaid for any length of time not exceeding ten years.

47. XLIV. To enter upon the land or lands, lot or lots of any person or persons within the city, at all reasonable hours, by their duly appointed city engineer, in order to set out the foundations and regulate the walls to be built between party and party, as to the breadth and thickness thereof,<sup>4</sup> which foundation shall be laid equally upon the lands of the persons between whom such party wall is to be made, and the first builder shall be reimbursed one moiety of the charge of such party wall, or for so much thereof as the next builder shall have occasion to make use of, before such next builder shall or may use or break into said wall.<sup>5</sup>

48. XLV. To enter upon the land or lands, lot or lots of any person or persons within the city, at all reasonable hours, by their duly appointed city engineer, in order to regulate partition fences;<sup>6</sup> and when adjoining parties shall improve or enclose their lots, such fences shall be made in the manner generally used, and kept in good repair at the equal ex-

<sup>1</sup> Under this clause a city of the third class may lawfully enter into a contract for lighting its streets for the term of five years, and it will be liable for the money payable under the contract. Such right is not interfered with by the subsequent provision of the Act of 1889 (Art. IX., § 5), requiring the controller to certify upon a contract which involves an appropriation of money, the estimated amount of expenditure thereunder for the ensuing fiscal year. *Black v. Chester City*, 175 Pa. 101; *Metropolitan Electric Co. v. Reading*, Id. 107.

<sup>2</sup> See *White v. Meadville*, 177 Pa. 643; *Commonwealth v. Illuminating Co.*, 190 Id. 578; and Act of June 24, 1895, P. L. 266.

<sup>3</sup> See the Act of May 21, 1901, P. L. 270, authorizing any incorporated water company furnishing water to a municipality, to extend its supply to adjacent territory.

<sup>4</sup> The decision of the city engineer as to the lines between property owners is not binding upon them, unless by consent. *Whitman v. Shoemaker*, 2 Pears. R. 320; *Rodearmel v. Hutchinson*, Id. 324.

<sup>5</sup> Municipal authority to regulate party walls in this state originated with the Act of 1721, applicable to Philadelphia. *Vollmer's App.*, 61 Pa. 118, 126. Boroughs derive such authority from the general borough law of 1851. The above is the only general act of assembly relating to the subject applicable to cities of the third class. A wall between two buildings of adjoining owners used as a common wall continuously for a period of twenty-one years becomes in law a party wall, whether the same be erected equally upon the lot of each party or not. *MoVey v. Durkin*, 136 Pa. 418. The title to a party wall passes with a conveyance of the ground, unless excepted thereip. Act April 10, 1849, § 4, P. L. 600; *Voight v. Wallace*, 179 Pa. 520; and all deeds are to be construed with reference to existing party wall legislation. *Western National Bank's App.*, 102 Id. 171.

<sup>6</sup> The Act of April 14, 1905, P. L. 162, regulating the erection of partition fences, appears to have exclusive reference to the rural districts of the state.

pense of the parties, unless the owners or occupants between <sup>23 May 1889.</sup> whom such fence is erected shall agree otherwise. <sup>Art. V.</sup>

49. XLVI. To make all such ordinances, by-laws, rules and regulations, not inconsistent with the constitution and laws of this commonwealth, as may be expedient or necessary in addition to the special powers in this section granted, for the proper management, care and control of the city and its finances, and the maintenance of the peace, good government<sup>1</sup> and welfare of the city, and its trade, commerce and manufactures,<sup>2</sup> and the same to alter, modify and repeal<sup>3</sup> at pleasure; and to enforce all ordinances by inflicting penalties for the violation thereof, not exceeding one hundred dollars<sup>4</sup> for any one offense, recoverable with costs, together with judgment of imprisonment not exceeding thirty days, if the amount of said judgment and costs shall not be paid.<sup>5</sup>

Ordinances, etc., for good government and welfare of city.

Penalties for violation of ordinances.

Limitation.

Imprisonment in default of payment.

<sup>1</sup> The limitation of such general power is that it must be exercised in a reasonable, lawful and constitutional manner. *O'Maley v. Borough of Freeport*, 96 Pa. 24. There is no liability for the improper or negligent exercise of the police power by a municipality. *Ewen v. Philadelphia*, 194 Pa. 548; *Betham v. Philadelphia*, 196 Id. 302. A municipality cannot by ordinance create a civil duty enforceable at common law; that power resides in the legislature. *P. & R. R. Co. v. Ervin*, 89 Id. 71.

<sup>2</sup> A municipal ordinance must be reasonable and for the common benefit. *Chester v. Traction Co.*, 4 Super. Ct. R. 575; it must not be in restraint of trade, nor ought it to impose a burden without an apparent benefit. *Millerstown v. Bell*, 123 Pa. 151. *Borough of Warren v. Lewis*, 16 Pa. C. O. R. 176. *Scranton v. Straff*, 28 Super. Ct. R. 260. General provisions such as the above confer no authority upon a city to appropriate

money for public entertainments or receptions, though the corporation may be made responsible for the pay of special policemen employed to keep order on such occasions. *Bergner v. Harrisburg*, 1 Pears. R. 291. See also *Commonwealth v. Gingrich*, 25 Pa. C. O. R. 579; 10 Dist. R. 747; 21 Super. Ct. R. 236.

<sup>3</sup> As to when a later ordinance will be construed as a repeal of an earlier one upon the same subject-matter, see *Commonwealth v. Lebanon*, 7 Dist. R. 163.

<sup>4</sup> See *Williamsport v. Williamsport Water Co.*, 7 Dist. R. 206. Failure to enforce an ordinance in one case is no legal reason for objection to its enforcement in another. *Wilkesbarre v. Garabed*, 11 Super. Ct. R. 355.

<sup>5</sup> The clause amended as above by Act of May 16, 1901, § 15, P. L. 234. Imprisonment can be imposed only in default of the payment of fines. *Scranton v. Wetherby*, 3 L. T. 225; and see *Commonwealth v. Scott*, 8 Dist. R. 367.

## Damages.

[See MUNICIPAL CLAIMS—SEWERS—STREETS—TOPOGRAPHICAL SURVEY—WATER AND LIGHTING DEPARTMENT.]

### I. APPEALS FROM AWARD OF DAMAGES.

1. Constitutional provision requiring compensation for damages for property taken. Right of trial by jury on appeal.
2. Appeals authorized in all cases of assessment of damages. Limitation.
3. Mode of appeal regulated.
4. When no appeal is taken and party refuses to accept award, payment may be made into court and judgment satisfied.
5. Appeal from report of viewers assessing damages to court of common pleas. Trial of issue by jury. Appeal to be taken within thirty days from decree of confirmation.
6. By whom appeal to be signed. Affidavit.
7. Bond of municipality to be taken with-out sureties.
8. Bond of city to be accepted as security. Exception.

### II. ASSESSMENT OF DAMAGES AND BENEFITS.

9. Assessment of damages and benefits for appropriation of lands, etc., in cities of

third class. Petition to court of common pleas. Appointment of viewers. Notice of meeting.

10. Viewers to be sworn. Duties of viewers. To estimate damages and benefits. Report.

11. Court to fix time when reports of viewers to be made. Extension of time for report.

12. Councils to provide for payment of damages. Assessment of damages and benefits. Benefits not to exceed damages. Exceptions. Appeal.

13. Judgment on award of viewers. Execution. Costs. Compensation of viewers.

14. City may tender security in certain cases. Condition of bond. Proceedings upon refusal to accept bond tendered. Security to be filed in court. Recovery to be had thereon.

15. Viewers may be appointed within six years after entry. Appeal from award. To be tried by jury. Notices. Exceptions.

16. Repeal of ordinance prior to appropriation of property. City to be liable for costs only.

17. Proceedings for assessment of damages in pending cases.

## I. Appeals from Award of Damages.

Const. 1874.  
Art. XVI., § 8.

Constitutional  
provision re-  
quiring com-  
pensation for  
damages for  
property taken.

Right of trial  
by jury on  
appeal.

18 June 1874.  
§ 1. P. L. 288.

Appeals au-  
thorized in all  
cases of assess-  
ment of dam-  
ages.

Limitation.

Id. § 2.

Mode of appeal  
regulated.

1. Municipal and other corporations, and individuals, invested with the privilege of taking private property for public use, shall make just compensation for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, which compensation shall be paid or secured before such taking, injury or destruction. The general assembly is hereby prohibited from depriving any person of an appeal from any preliminary assessment of damages against any such corporations or individuals made by viewers or otherwise; and the amount of such damages in all cases of appeal shall, on the demand of either party, be determined by a jury according to the course of the common law.

2. In all cases of damages assessed against any municipal or other corporation, or individual or individuals, invested with the privilege of taking private property for public use, for property taken, injured or destroyed by the construction or enlargement of their works, highways or improvements, whether such assessment shall have been made by viewers or otherwise than upon a trial in court, and an appeal is not provided for, or regulated by existing laws, an appeal may be taken by either party to the court of common pleas of the proper county<sup>1</sup> within thirty days from the ascertainment of the damages, or the filing a report thereof in court, pursuant to any general or special act, and not afterwards.<sup>2</sup>

3. Any appeal taken pursuant to this act shall be signed by the party or parties taking the same, or by his or their agent or attorney, and shall be accompanied by an affidavit of the party appellant, or of his or their agent or attorney, that the

<sup>1</sup> This act was designed to carry into effect the constitutional provision (*supra*), which embraced then existing as well as thereafter created corporations, municipal or private. *Pennsylvania R. R. Co. v. Duncan*, 111 Pa. 352. It furnishes the remedy in cases where no sufficient provision for trial by jury already existed. *Bachler's App.*, 90 Id. 207. It does not apply to cases in which subsequent statutes provide for and regulate such appeals. *Miller v. Pipe Lines*, 2 Dist. R. 602. The act vests exclusive jurisdiction of the question of damages on appeal in the common pleas. *In Re Widening of Chestnut Street*, 128 Pa. 214. It applies to the assessment of benefits as well as damages, by a jury. *Pusey's App.*, 83 Id. 67.

The injury must be actual, positive and visible, and such a legal wrong as would be the subject of an action for damages at common law. *Pennsylvania R. R. Co. v. Marchant*, 119 Pa. 541. A city is not liable under the above provision for damages to property occasioned by the inadequacy of a sewer constructed by it. *Bear v. Allentown*, 148 Id. 80, and see *Fairlawn Coal Co. v. Scranton*, Id. 231. The right of action for consequential injuries

caused by the construction or enlargement of their works, etc., by municipal or other corporations accrues when the particular part of the work causing the injury is actually undertaken. *O'Brien v. R. R. Co.*, 119 Id. 184. The condemnation of land under a power of eminent domain by a municipal corporation entitles the latter to exclusive possession of the premises thereafter, and the former owner is a trespasser if he attempts to use any portion of it. *Reading v. Davis*, 153 Id. 360. As to the responsibility of a city under the constitutional provision for consequential damages from the opening of streets, see *Pusey v. Allegheny City*, 98 Pa. 522. For appropriation of water courses, *Reading v. Allhouse*, 93 Id. 400. And for changing the grade of a street. *New Brighton v. United Presbyterian Church*, 96 Id. 331; *O'Brien v. Philadelphia*, 150 Id. 589; *Groff v. Philadelphia*, Id. 594; *Hobson v. Philadelphia*, Id. 595.

<sup>2</sup> The time within which the appeal must be taken is thirty days from the filing of the report. *Bowers v. Braddock Borough*, 172 Pa. 596. See also *Vernon Park, Philadelphia's App.*, 163 Id. 70.

same is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done. 13 June 1874.

4. When no appeal is taken in accordance with the provisions of the act of thirteenth June, one thousand eight hundred and seventy-four, and judgment is entered in accordance with law, and the party to whom has been awarded damages declines and refuses to accept payment of said award or judgment, then it shall be lawful for such municipal or other corporation, individual or individuals against whom such damages have been assessed, upon proper petition to the court of common pleas of the proper county in which said award or judgment is entered, after notice by rule or publication ordered by said court, to pay the amount of said award and costs into said court, and the court upon such payment to order and direct the satisfaction of said award or judgment by the proper officer. 2 June 1891.  
§ 1. P. L. 172.

When no appeal is taken, and party refuses to accept award, payment may be made into court and judgment satisfied.

5. Whenever any report of viewers appointed by any court of quarter sessions to assess damages for the opening, widening or change of grade of any street, road or highway, shall be confirmed by the court of quarter sessions to which the said report is made,<sup>1</sup> an appeal may be taken from the said court of quarter sessions by any party aggrieved by the said decree of confirmation to the court of common pleas in said county for a trial of the question of damages by jury, according to the course of common law, within thirty days from the entry of said decree of confirmation by the court of quarter sessions, and not afterwards. 26 May 1891.  
§ 1. P. L. 118.

Appeal from report of viewers assessing damages to court of common pleas

Trial of issue by jury. Appeal to be taken within thirty days from decree of confirmation.

6. Any appeal taken in pursuance of this act shall be signed by the party or parties taking the same, or by his or their agent or attorney, and shall be accompanied by an affidavit of the party appellant, or of its, his or their agent or attorney, that the same is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done. Id. § 2.

By whom appeal to be signed. Affidavit.

7. Whenever any court of quarter sessions in this commonwealth shall order any municipal corporation to enter security for the payment of damages for the taking of land for any street, road or highway, the bond of the said municipality shall be taken without sureties. 23 May 1891.  
§ 1. P. L. 109.

Bond of municipality to be taken without sureties.

8. In all cases where the several cities of this commonwealth are or shall be required by law to give or tender security in the taking, appropriation, or injury of lands and property, where the same is being acquired for any authorized public use or purpose, the said security may be the bond of the proper city, and be given and tendered without surety or sureties; *Provided, however,* That if it shall appear to the proper court or a law judge thereof, when the said bond is presented for approval, that the power of taxation in the respective city is not sufficient security, the said court or 11 March 1903.  
§ 1. P. L. 25.

Bond of city to be accepted as security.

Exception.

<sup>1</sup> By the Act of March 27, 1903, P. L. 83, reports of viewers appointed by the court of quarter sessions are to be con-

firmed at the expiration of thirty days from the filing thereof, unless exceptions are filed.

11 Mar. 1908. law judge may require the said city to give or tender bond with surety or sureties.

## II. Assessment of Damages and Benefits.

23 May 1880.  
Art. XIV., § 1.  
P. L. 814.

Assessment of  
damages and  
benefits for ap-  
propriation of  
lands, etc., in  
cities of third  
class.

Petition to  
court of com-  
mon pleas.

Appointment  
of viewers.

Notice of  
meeting.

Id. § 2.  
Viewers to  
be sworn.

Duties of  
viewers.

9. Any city of the third class shall have power, whenever it shall be deemed necessary, either in the laying out, opening, widening, extending or grading of streets, lanes or alleys, or in the erection or construction of water, gas or electric light works, slopes, embankments or sewers, or in the changing of water-courses, or for any other purpose authorized by this act,<sup>1</sup> to take, use, occupy or injure private lands, property or materials; and in case the compensation for the damages done or the benefits accruing therefrom have not been agreed upon, the court of common pleas of the proper county, or any law judge thereof in vacation, on application thereto by petition by said city or by any person interested, shall appoint three discreet and disinterested freeholders of the said city as viewers, to view and ascertain the damages done, and the benefits which have accrued by reason of the said taking, use, occupancy or injury, and shall appoint a time not less than twenty, nor more than thirty days thereafter, for said viewers to meet at or upon the premises where the damages are alleged to be sustained, or the property taken, or on the line of said street or sewer improvement, as the case may be, of which time and place ten days' notice shall be given by the petitioners to the said viewers and to all parties interested, by personal service upon the parties, their agents, attorneys or legal representatives, by publication in one or more newspapers, or by handbills posted upon the premises, or otherwise, as the said court shall direct, having regard to the circumstances of each case.<sup>2</sup>

10. The said viewers, or any two of them, having been [first] duly sworn or affirmed faithfully, justly and impartially to decide and true report to make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire, in pursuance of the provisions of this act, and having viewed the premises,<sup>3</sup> or examined the property or materials, shall estimate and determine the quantity, quality and value of said lands so taken,

<sup>1</sup> See the Act of May 26, 1893, P. L. 139, authorizing cities to appropriate private property for the construction of piers, abutments, fills, slopes and approaches for bridges crossing rivers, within the corporate limits; also Act of same date, P. L. 154, authorizing them to purchase, condemn and appropriate bridges over streams separating parts of their municipal districts, and providing the mode in which compensation shall be made. Jurisdiction in both cases is vested in the common pleas.

<sup>2</sup> As to the effect of similar provisions of the Act of May 23, 1874, upon prior legislation regulating the mode of opening streets and the assessment of dam-

ages where jurisdiction had been vested in the quarter sessions, see *Opening of Spring Street*, 112 Pa. 258.

<sup>3</sup> The Act of May 1, 1876, P. L. 94, requiring an estimate and map or plan of the property liable to assessment before making the improvements was repealed by the Act of May 27, 1889, P. L. 387. By the Act of May 21, 1895, P. L. 89, relating to the acquirement of right of way or easement by municipal or other corporations in lands of private owners, the parties may, by agreement, waive the assessment of damages by viewers, and have the jury view the premises in dispute upon the trial of the cause.

occupied or injured, or to be taken, occupied or injured, or the property and materials so used or taken away, as the case may be, and having a due regard to, and making just allowance for the advantages which may have resulted, or which may seem likely to result to the owner or owners of said lands, property or materials in consequence of the making of the improvements aforesaid, for which the property or materials are to be taken, and after having made a fair and just comparison of said advantages and disadvantages, they shall estimate and determine their value, and whether any, and if any, what amount of damages has been or may be sustained, and to whom the same is payable, and after having determined the damages sustained to all the properties affected by said improvement, together with the benefits as hereinafter mentioned, they shall make report thereof to the said court.

28 May 1880.  
Art. XIV.

To estimate  
damages and  
benefits.

Report.

11. Viewers, or juries of view, appointed by any court of this commonwealth to assess the damages and benefits, due to the taking, injury or destruction of private property, in and by the construction or enlargement of any public work, highway or improvement, shall make their reports within a time which said court shall fix when so appointing them: *Provided*, That if any of the viewers, or juries of view, so appointed, shall for any good and sufficient reason appearing to the court, be unable to file its report within the period so fixed, the said court may, in its discretion, either before or after the expiration of the time fixed, extend the time for the filing of such report to such a time as justice and the circumstances of the case may demand.

18 March 1908.  
§ 1. P. L. 28.

Court to fix  
time when re-  
ports of view-  
ers to be  
made.

Extension of  
time for re-  
port.

12. The councils of said cities shall have power to provide by ordinance for the payment of damages sustained by the making of the improvements aforesaid, or by the vacation<sup>1</sup> of any public highway, either by the city, or by assessments upon property benefited by such improvements,<sup>2</sup> and in the latter case the viewers appointed to assess damages shall also assess upon any property benefited by such improvements, whether said property be immediately adjacent thereto or in the vicinity thereof, such amount for the special advantages which may accrue to the said several properties from such improvements as they may deem proper, and shall report the same to the said court; *Provided*, That assessments for benefits shall not exceed the damages awarded or agreed upon; *And provided further*, That parties assessed for benefits shall have the same right to file exceptions to said report, or to appeal therefrom, as is herein provided for in the case of assessments of damages for property taken.

28 May 1880.  
Art. XIV., § 8.

Councils to  
provide for  
payment of  
damages.

Assessment  
of damages  
and benefits.

Benefits not  
to exceed  
damages.

Exceptions.

Appeal.

<sup>1</sup> Independently of statutory provision there can be no liability for the lawful vacation of a street. *McGee's App.*, 114 Pa. 470.

<sup>2</sup> As to the test of the constitutionality

of provisions for local assessments and the character thereof as a species of local taxation, see *In Re Vacation of Centre Street*, 115 Pa. 247; *Erie v. Russell*, 148 Id. 384.

23 May 1889.  
Art. XIV., § 4.

Judgment on  
award of  
viewers.

Execution.

Costs.

Compensation of  
viewers.

Id. § 5.

City may tender  
security in  
certain cases.

Condition of  
bond.

Proceedings  
upon refusal  
to accept bond  
tendered.

Security to be  
filed in court.

Recovery to be  
had thereon.

Id. § 6.

Viewers may  
be appointed  
within six  
years after  
entry.

Appeal from  
award.

13. If any damages be awarded, and the report be confirmed by the said court, judgment shall be entered thereon, and if the amount thereof be not paid within thirty days after the entry of such judgment, execution may then issue thereon, as in other cases of debt, for the sum so awarded, but assessments for benefits shall be collected as hereinafter provided.<sup>1</sup> The costs and expenses incurred in the proceedings aforesaid shall be defrayed by the said city, and each of the said viewers shall be entitled to two dollars per day for every day necessarily employed in performance of the duties herein prescribed.

14. In all cases where the parties have not agreed upon the amount of damages claimed, or where by reason of the absence or legal incapacity of the owner or owners no such agreement can be made for lands, property or materials to be taken, occupied or injured, the city shall tender sufficient security<sup>2</sup> to the party claiming or entitled to any damages, or to the attorney or agent of any person absent, or to the agent or other officer of a corporation, or to the guardian or committee of any one under legal incapacity, the condition of which shall be that the said city shall pay or cause to be paid such amount of damages as the party shall be entitled to receive after the same shall have been agreed upon by the parties, or assessed in the manner provided for by this act; *Provided*, That in case the party or parties claiming damages refuse, or do not accept the security so tendered, the said city shall then give the party, his or their agent, attorney or other officer, a written notice of the time when the same will be presented for filing in the court, and thereafter the said city may present said security to the court of common pleas of the county where the lands or other property are situated, and, if approved, the security shall be filed in said court for the benefit of those interested, and recovery may be had thereon for the amount of damages assessed, if the same be not paid, or cannot be made by execution on the judgment in the issue formed to try the question.

15. The viewers provided for in the foregoing sections of this article may be appointed before, or at any time within six years after the entry, taking, appropriation or injury of any property or materials for constructing said improvements, and upon the report of said viewers, or any two of them, being filed in said court, any party may within thirty days thereafter file his, her or their appeal from said report to said court. Such appeal shall be in writing, and accompanied by an affidavit of the appellants, or their agent or attorney, that the same is not taken for the purpose of delay, but because the

<sup>1</sup>That is, in the mode prescribed by Section 22 of Art. XV. of the act; title "Municipal Claims." *Titusville Street*, 3 Dist. R. 752.

<sup>2</sup>The word "security" is substituted for

the word "bond" occurring in section 54, of the Act of May 23, 1874, the purpose being to enable the city to offer indemnity in such form as not to necessitate the finding of sureties. See § 8 *supra*.



affiant firmly believes that injustice has been done; and after such appeal either party may put the cause at issue in the form directed by said court, and the same shall be tried by said court and a jury, and after final judgment either party may have a writ of error<sup>1</sup> therefrom to the supreme court in the manner prescribed in other cases. The said court of common pleas shall have power to order what notices shall be given in connection with any part of the proceedings, and may make all such orders as it may deem requisite. If any exceptions be filed with any appeal to the proceedings, they shall be speedily disposed of, and if allowed, a new view shall be ordered, and if disallowed, the appeal shall proceed as hereinbefore provided.

<sup>23</sup> May 1889.  
Art. XIV.  
To be tried  
by jury.

Notices.

Exceptions.

16. In case any such city shall repeal any ordinance passed or discontinue any proceedings taken, providing for any of the improvements mentioned in the first section of this article, prior to the entry upon, taking, appropriation or injury to any property or materials, and within thirty days after the filing of the report of viewers assessing damages and benefits the said city shall not thereafter be liable to pay any damages which have been or might have been assessed, but all costs upon any proceeding had thereon shall be paid by said city.

Id. § 7.  
Repeal of ordinance prior to appropriation of property.  
City to be liable for costs only.

17. In all cases where lands or property have been heretofore taken, used, occupied or appropriated for any of the purposes aforesaid within five years last past, or where any ordinance has been passed providing for such taking, using or occupancy, and the damages sustained thereby, or the benefits accruing therefrom, have not yet been legally determined, it shall be lawful to proceed and determine said damages and benefits, and collect the same under the provisions of this article, with the same effect as if said improvements had been undertaken or proceeded in after the passage of this act.<sup>2</sup>

Id. § 8.  
Proceedings for assessment of damages in pending cases.

<sup>1</sup> See the Act of May 9, 1889, P. L. 158, relating to writs of error and appeals to the supreme court, and prescribing the form thereof; also the Act of June 24, 1895, P. L. 212, establishing the superior court and defining its jurisdiction.

<sup>2</sup> See the Act of May 23, 1889, P. L. 272, "authorizing assessments and re-assessments for the cost of local improvements already made or in process of completion, and providing for and regulating the collection of the same." The act was

remedial in its character, merely, and was pronounced constitutional in *Chester City v. Black*, 132 Pa. 568. See also the remedial Act of June 7, 1897, P. L. 131, providing for the mode of ascertaining damages to property in the opening, widening, straightening or extending of streets, where proceedings have been taken by municipalities under laws subsequently declared unconstitutional, and for the levy and collection of benefits therefor; and Act of April 18, 1899, P. L. 57.

## Disorderly Conduct.

1. Disorderly conduct in public places defined. Penalty. Appeal. Recognizance.  
2. Fines to be paid to county treasurer quarterly.

3. Disorderly conduct in railway cars, etc. Penalty.  
4. Payment over of fines collected.

1. From and after the passage of this act if any person or persons shall willfully make or cause to be made any loud, boisterous and unseemly noise or disturbance to the annoyance of the peaceable residents near by, or near to any public

<sup>25</sup> June 1895.  
§ 1. P. L. 271.  
Disorderly conduct in public places defined.

25 June 1898. highway, road, street, lane, alley, park, square or common<sup>1</sup> within this commonwealth, whereby the public peace is broken or disturbed, or the traveling public annoyed, he, she or they shall be guilty of the offence of disorderly conduct, and upon conviction thereof before any justice of the peace, alderman, mayor or burgess, shall be sentenced to pay the costs of prosecution, and to forfeit and pay a fine not exceeding ten dollars, and in default of the payment thereof shall be committed to and imprisoned in the county jail of the proper county for a period not exceeding thirty days; *Provided, however,* That the defendant or defendants, within five days after such conviction, may appeal to the court of quarter sessions of the county in which said justice of the peace, alderman, mayor or burgess shall reside, without special allowance therefor, upon entering into a recognizance in double the amount of costs and fine, conditioned for the appearance of defendant or defendants at the next term of quarter sessions to answer said charge.<sup>2</sup>

Penalty.

Appeal.

Recognizance.

Id. § 2.

Fines to be paid to county treasurer quarterly.

21 May 1901.  
§ 1. P. L. 286.

Disorderly conduct in railway cars, etc.

Penalty.

Id. § 2.

Payment over of fines collected.

2. It shall be the duty of all justices of the peace, aldermen, mayors and burgesses to pay over to the treasurer of their respective counties all fines or forfeits collected by virtue of this act, quarterly, on or before the first Monday of March, June, September and December of each year, and at the expiration of their term of office.

3. If any person or persons shall wilfully make or cause to be made any loud, boisterous and unseemingly noise, or by using obscene or profane language disturb and annoy any one who shall be passengers upon any railroad or railway car, or who may be visitors at any public or private park, or picnic grounds kept for the amusement of the public in this commonwealth, whereby through such conduct the public peace is broken or disturbed or the public annoyed, he, she or they shall be guilty of the offense of disorderly conduct; and upon conviction thereof before any magistrate, justice of the peace, alderman, mayor, or burgess, shall be sentenced to pay the costs of prosecution, and to forfeit and pay a fine not exceeding ten dollars; and in default of the payment thereof, shall be committed to and imprisoned in the county jail of the proper county for a period not exceeding thirty days.

4. It shall be the duty of all magistrates, justices of the peace, aldermen, mayors, and burgesses to pay over to the treasurer of their respective counties all fines or forfeits collected by virtue of this act, quarterly, on or before the first Monday of March, June, September and December of each year, and at the expiration of their term of office.

<sup>1</sup> The essential feature of the offence is that it be committed in some one of the public places designated by the statute.

*Commonwealth v. Ferree*, 20 Pa. C. C. R. 87.

<sup>2</sup> The section amended as above by Act of May 2, 1901, P. L. 132.

**Dogs.**

1. Cities may impose dog tax, etc.

1. Every city of the commonwealth shall have power to <sup>10 June 1881.</sup> pass ordinances taxing the owners and harborers of dogs, and <sup>§ 1. P. L. 112.</sup> providing for the destroying of all dogs found at large con- <sup>Cities may impose dog tax, etc.</sup> trary to any ordinance.<sup>1</sup>

<sup>1</sup> By the Act of May 18, 1878, P. L. 72, various local acts applicable to several counties, providing for a system of registration of dogs in the office of the clerk of the court of quarter sessions were extended to all the counties of the state. All dogs registered under those acts were declared to be personal property and made the subjects of larceny, which they were not at common law. By the Act of May 25, 1893, "for the taxation of dogs and the protection of sheep," section 7, P. L. 138, it is declared that "all dogs in this commonwealth shall hereafter be personal property and subjects of larceny," irrespective, it would seem, of registration.

(See *Commonwealth v. Dupuy*, 148 Pa. 201.) Sec. 10 of the act provides that the provisions of any special law relating to the same subject shall not be thereby repealed. The amending Act of April 23, 1901, P. L. 92, relates to the payment over of fines accrued, to the proper school district. The innumerable local acts relating to the taxation of dogs in cities seem to have been wholly supplied by the act in the text which is itself supplied as to cities of the third class by the provision of Section 3, Clause 35 of Article V. of the Municipal Act of May 23, 1889. See title "Corporate Powers," ante p. 64, § 38.

**Elections.**

[See INCOMPATIBLE OFFICES—PUBLIC OFFICERS.]

**I. CONSTITUTIONAL PROVISIONS.**

1. Qualifications of electors.
2. General elections.
3. Municipal elections.
4. Election districts.
5. Ineligibility of election officers.
6. Trial of contested elections.

**II. PRIMARY ELECTIONS.**

7. Bribery at nominating conventions or primary elections punished.
8. Acceptance of bribe from candidate for nomination. Penalty.
9. Offer to sell vote at primary election or convention. Penalty.
10. Repeating at primary election, etc. Penalty.
11. Bribery by delegates to nominating conventions. Penalty.

12. Bribery by executive committee or return board. Penalty.

13. Bribery or intimidation of executive committee or return board. Penalty.

14. Officers of primary elections to be sworn. Form of oath.

15. Penalty for acting without taking oath. For violation of party rules. For rejection of qualified vote, or acceptance of unqualified vote. Willful fraud.

16. Repeal. Proviso.

**III. RETURNS OF ELECTION OF MUNICIPAL OFFICERS.**

17. Mayor to procure certified copy of vote cast for city officers. Certificates to be laid before councils and recorded. Same proceedings in case of special elections. Court to fix polling places.

**I. Constitutional Provisions.**

1. Every male citizen twenty-one years of age, possessing <sup>Const. 1874.</sup> the following qualifications, shall be entitled to vote at all <sup>Art. VIII., § 1.</sup> elections, subject, however, to such laws requiring and regulat- <sup>Qualifications of electors.</sup> ing the registration of electors as the general assembly may enact.<sup>1</sup>

I. He shall have been a citizen of the United States at least one month.

II. He shall have resided in the state one year (or if having previously been a qualified elector, or native born citizen

<sup>1</sup> The section amended as above by action of the legislature in accordance with the constitution, ratified by popular vote at the general election held November 5, 1901. Further amendments to Article VIII., adopted at the same time, author-

ize the passage of laws requiring the registration of electors in cities, providing such laws be uniform for cities of the same class, and the holding of elections by other method than by ballot, providing that secrecy in voting be preserved.

Const. 1874.  
Art. VIII.

of the state, he shall have removed therefrom and returned, then six months) immediately preceding the election.

III. He shall have resided in the election district where he shall offer to vote at least two months immediately preceding the election.

IV. If twenty-two years of age or upwards, he shall have paid within two years a state or county tax, which shall have been assessed at least two months, and paid at least one month before the election.

Id. § 2.

General elections.

Id. § 2.

Municipal elections.

Id. § 11.

Election districts.

2. The general election shall be held annually on the Tuesday next following the first Monday of November; but the general assembly may by law fix a different day, two-thirds of all the members of each house consenting thereto.

3. All elections for city, ward, borough and township officers, for regular terms of service, shall be held on the third Tuesday of February.<sup>1</sup>

4. Townships, and wards of cities or boroughs, shall form or be divided into election districts of compact and contiguous territory, in such manner as the court of quarter sessions of the city or county in which the same are located may direct,<sup>2</sup> but districts in cities of over one hundred thousand inhabitants shall be divided by the courts of quarter sessions having jurisdiction therein, whenever at the next preceding election more than two hundred and fifty votes shall have been polled therein; and other election districts whenever the court of the proper county shall be of opinion that the convenience of the electors and the public interests will be promoted thereby.<sup>3</sup>

Id. § 15.

Ineligibility of election officers.

5. No person shall be qualified to serve as an election officer who shall hold, or shall within two months have held any office, appointment or employment in or under the government of the United States, or of this state, or of any city or county, or of any municipal board, commission or trust in any city, save only justices of the peace and aldermen, notaries public, and persons in the militia service of the state; nor shall any election officer be eligible to any civil office to be

<sup>1</sup> City elections are required by law to be conducted in the same manner as general elections, which are mainly regulated by the Acts of January 30, 1874, P. L. 31; June 19, 1891, P. L. 349, and June 10, 1893, P. L. 419 (as amended by the Act of July 9, 1897, P. L. 223), the two latter of which also provide for the mode of nomination of public officers. The returns are delivered into the prothonotary's office and publicly computed by the court on the second day succeeding the election. Certificates in accordance with the result as ascertained and declared by the court are issued by the prothonotary, under the seal of the court, to the officers elected. The expenses of all elections are paid by the county, and the county commissioners are required to provide the necessary facilities for holding them. By these and other general acts former local

provisions for the holding of elections in the various cities of the state have been wholly superseded or supplied.

<sup>2</sup> The mode is prescribed by the Act of May 18, 1876, P. L. 178. As to the unconstitutionality of that portion of the act relative to the confirmation of the report of the commissioners, see *In re Born Township*, 115 Pa. 615.

<sup>3</sup> The costs of proceedings for the division or creation of election districts are payable out of the county treasury. Act March 18, 1875, P. L. 29. The Act of June 26, 1895, P. L. 377, authorizes the courts of quarter sessions, on petition of a majority of the qualified electors, to consolidate two or more adjoining election districts in townships, boroughs or cities, and to appoint the election officers and fix the place for holding the first election therein.

filled at an election at which he shall serve, save only to such subordinate municipal or local offices below the grade of city or county offices, as shall be designated by general law.<sup>1</sup>

Const. 1874.  
Art. VIII.

6. The trial and determination of contested elections of electors of president and vice-president, members of the general assembly, and of all public officers, whether state, judicial, municipal or local, shall be by the courts of law, or by one or more of the law judges thereof; the general assembly shall, by general law, designate the courts and judges by whom the several classes of election contests shall be tried, and regulate the manner of trial and all matters incident thereto; but no such law assigning jurisdiction, or regulating its exercise shall apply to any contest arising out of an election held before its passage.<sup>2</sup>

Id. § 17.

Trial of contested elections.

## II. Primary Elections.

7. Hereafter, if a candidate for any office within this commonwealth shall, directly or indirectly, give, offer, or promise to give or procure any other person to give, offer, or promise to give to any elector any gift or reward in money, goods or other valuable thing, or any security for the payment or the delivery of money, goods or other valuable thing, or any office, emolument or employment, on condition, express or implied, that such elector shall cast, give, retain or withhold his vote, or use his influence at a nominating election or delegate election, or cast, give, or substitute another to cast or give his vote, or use his influence at a nominating convention, for or against the nomination of any particular candidate for nomination, so as to procure such person to be voted for at any election to take place, the person so hiring, procuring, influencing, abetting, endeavoring or offering, either directly or indirectly through others, their aiders or abettors, to procure the person to be voted for by such electors, shall be guilty of

§ June 1881.  
§ 1. P. L. 70.

Bribery at nominating conventions or primary elections punished.

<sup>1</sup> See the general election law of June 10, 1893 (Baker ballot law), Sec. 10, Cl. 3, P. L. 423, as amended by the Act of June 26, 1895, P. L. 392, as to the notice required to be given by the sheriff in his election proclamation of the ineligibility of certain officers therein named, to be election officers. This notice must state that "every person, excepting justices of the peace, who shall hold any office or appointment of profit or trust under the government of the United States, or of this state, or of any city or incorporated district, whether a commissioned officer or otherwise, a subordinate officer or agent, who is or shall be employed under the legislative, executive or judiciary department of this state or of the United States, or of any city or incorporated district, and also every member of congress and of the state legislature, and of the select or common council of any city, or commissioners of any incorporated district, is by law incapable of holding or exercising at the same time the office or appointment of judge, inspector or clerk of any election

of this commonwealth, and that no inspector, judge or other officer of any such election shall be eligible to any office to be then voted for, except that of an election officer." The offices of school director and judge of election are not incompatible. *Dauphin County Election*, 11 Phila. R. 645. The election laws of the state in general are a complicated system which is the subject of perpetual alteration by the legislature.

<sup>2</sup> The several classes of contested elections are defined by the Act of May 19, 1874, P. L. 208, which provides that contested elections of officers elected by counties, cities, townships, boroughs, wards or school districts shall be tried and determined by the court of quarter sessions of the proper county. The act prescribes the mode of proceedings. The costs are payable by the municipality or district, unless the contestant fails to establish his right to the office, in which case they are to be paid by the petitioners. Act April 28, 1899, P. L. 118.

§ June 1881.

Id. § 2.

Acceptance of  
bribe from  
candidate for  
nomination.

a misdemeanor, and on conviction shall be sentenced to pay a fine not exceeding three hundred dollars and be imprisoned for a period not exceeding three months.<sup>1</sup>

8. If any elector authorized to vote at any public election afterwards to take place within this commonwealth for any office shall, directly or indirectly, accept or receive from any person desiring to be nominated as a candidate for office, or from the friends of any such person, any gift or reward in money, goods or other valuable thing, or any office or employment, under an agreement or promise, express or implied, that such elector shall give or withhold his vote for the nomination of such a person as a candidate for office at such election, or shall accept or receive the promise of any person that he shall thereafter receive any gift or reward in money, goods, position or other valuable thing, if he will vote for the nomination of such a person as a candidate for office, and shall thereafter vote for the nomination of such person, he shall be guilty of a misdemeanor, and, on conviction, shall pay a fine not exceeding three hundred dollars, and be imprisoned for a term of time not exceeding three months.

Penalty.

Id. § 3.

Offer to sell  
vote at primary  
election or  
convention.

9. If any elector shall, directly or indirectly, offer to give his vote or his influence at any nominating election, delegate election or nominating convention, to any person desiring to be nominated as a candidate for office, or to the friends of any such person, in consideration that for such vote or influence he is to receive any gift or reward in money, goods or other valuable thing, or any office or employment, he shall be guilty of a misdemeanor, and, on conviction, shall pay a fine not exceeding three hundred dollars, and undergo a period of imprisonment not exceeding three months.

Penalty.

Id. § 4.

Repeating at  
primary elec-  
tion, etc.

10. If any person not qualified to vote at a general election shall vote at a nominating election held by any political party, or if any person shall procure, advise or induce such disqualified person to so vote, or if any person shall vote at more than one election district, or otherwise vote more than once on the same day for the nomination of a candidate, or shall fraudulently vote more than one ticket for the same candidate at the same time, or if any person shall advise or procure another so to do, he or they shall be guilty of a misdemeanor, and on conviction shall be fined not exceeding the sum of two hundred dollars, and imprisoned for a term of time not exceeding three months.

Penalty.

Id. § 5.

Bribery by  
delegates to  
nominating  
conventions.

11. In all cases where a person is elected or chosen, or shall act as a delegate to a convention to make nominations for offices, and shall receive, accept or solicit any bribe in money, goods or thing of value, or any office or position as an inducement to make or join in any nomination for any person to be voted for as an officer or candidate for office, or shall,

<sup>1</sup> This act is constitutional, and is an "election law" within the meaning of Sec.

9 of Art. VIII. of the constitution. *Leonard v. Commonwealth*, 112 Pa. 607.

in like manner and for like reason, agree to abstain from voting for any particular person, [he] shall be guilty of a misdemeanor, and on conviction shall be sentenced to pay a fine of not more than one hundred dollars, and be imprisoned not exceeding three months. § June 1881.

12. Any person elected, chosen or acting as a member of the county or executive committee of any party, or as a judge of a return board to count up and cast the votes polled at a primary election held to make nominations for office, or any person appointed a clerk of such return board, who shall directly or indirectly accept, receive, or solicit money, office, appointment, employment, testimonial, reward or other thing of value, or the promise of all or either of them, to influence his vote or action in the discharge, performance, or non-performance of any act, duty or obligation pertaining to such office, shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of not more than one hundred dollars, and to be imprisoned for a time not exceeding three months. Id. § 6.  
Bribery by executive committee or return board.  
Penalty.

13. Any person or persons who shall directly or indirectly, by offer or promise of money, office, appointment, employment, testimonial, reward or other thing of value, or who shall, by threats or intimidation, endeavor to influence a member of a county or executive committee of any party, a judge or clerk of any return board, in the discharge, performance or non-performance of any act, duty or obligation pertaining to such office, shall be guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of two hundred dollars, and to undergo imprisonment not exceeding six months. Bribery or intimidation of executive committee or return board.  
Penalty.

14. From and after the passage of this act it shall be lawful, and it is hereby made the duties of the judges, inspectors and clerks, or other officers of the primary elections, meetings or caucus held for the purpose of nominating candidates for state, city and county offices within the commonwealth of Pennsylvania, before entering upon the discharge of their duties, severally to take and subscribe to an oath or affirmation in the presence of each other, in form as follows, namely: "I (A. B.), do ——— that I will, as judge, inspector or clerk (as the case may be) at the ensuing election, impartially and faithfully perform my duties in accordance with the laws and constitution of the commonwealth of Pennsylvania, and in accordance with the rules and regulations adopted by the ——— party of the county of ——— for the government of the said primary elections, meetings or caucus, to the best of my judgment and abilities." The oath or affirmation shall be first administered to the judge by one of the inspectors, then the judge so qualified shall administer the oath or affirmation to the inspectors and clerks, and may administer the oath to 29 June 1881.  
§ 1. P. L. 128.  
Officers of primary elections to be sworn.  
Form of oath.

29 June 1881.

Id. § 2.  
Penalty for  
acting without  
taking oath.

For violation  
of party rules.

For rejection  
of qualified  
vote, or ac-  
ceptance of  
unqualified  
vote.

Willful fraud.

Repeal.

Proviso.

any elector offering to vote, as to his qualifications to vote at such election.

15. If any judge, inspector, clerk or other officer of a primary election as aforesaid, shall presume to act in such capacity before the taking and subscribing to the oath or affirmation required by this act, he shall, on conviction, be fined not exceeding two hundred dollars; and if any judge, inspector, clerk or other officer, when in the discharge of his duties as such, shall wilfully disregard or violate the provisions of any rule duly made by the said \_\_\_\_\_ party of \_\_\_\_\_ county for the government of the primary elections of the party, he shall, on conviction, be fined not exceeding two hundred dollars; and if any judge or inspector of a primary election as aforesaid, shall knowingly reject the vote of any person entitled to vote under the rules of the said \_\_\_\_\_ party, or shall knowingly receive the vote of any person or persons not qualified as aforesaid, [he] shall, on conviction, be fined not exceeding two hundred dollars; and if any judge, inspector, clerk or other officer of a primary election as aforesaid shall be guilty of any willful fraud in the discharge of his duties, by destroying or defacing ballots, adding ballots to the poll other than those lawfully voted, by stuffing the ballot box, by false counting, by making false returns or by any act or thing whatsoever, the person so offending shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding five hundred dollars, or imprisoned not exceeding one year, or both, or either, at the discretion of the court.

16. All acts or parts of acts of assembly inconsistent with this act are hereby repealed, except in counties or cities where special acts are in force for the same purpose; *Provided*, That the provisions of this act shall entail no expense to the counties or cities.

### III. Returns of Election of Municipal Officers.

28 May 1880.  
Art. IV., § 18.  
P. L. 285.

Mayor to procure certified copy of vote cast for city officers.

Certificates to be laid before councils and recorded.

Same proceedings in case of special elections.

17. Whenever an election shall be held for city officers on the third Tuesday of February in any year, for regular terms of service, it shall be the duty of the mayor to procure, at the expense of the city, from the prothonotary of the court of common pleas of the proper county, by which court the returns thereof shall be computed, a certified copy, under the seal of the court, of the vote for all such officers as computed by the court according to law, and lay the same before councils on the date and time fixed by law for their annual organization, and the said certificates shall be filed among the city archives and a copy thereof entered upon the journals. In the case of a special election for a member or members of councils to fill a vacancy or vacancies, the mayor shall procure from the prothonotary, as aforesaid, a certificate of the vote for such member or members, as returned into his office by the proper election officers, and lay the same before the re-



spective branch at the next regular meeting succeeding such election, which council shall enter the same among its proceedings. The court of quarter sessions shall appoint the places for holding the municipal and general elections in all of the election districts in each of said cities.<sup>1</sup>

<sup>1</sup> By the Act of May 18, 1893, P. L. 106, the court is empowered, upon petition, to change the polling places, and, in its discretion, to appoint an election to determine their location. By the Act of April 14, 1903, P. L. 187, county commissioners are authorized, at any time at least three weeks prior to any general, municipal,

township or special election, "upon a petition of at least ten qualified electors of any township election division, to change the polling place of said township or election division," being also empowered to direct an election in the meantime to determine the question.

## Electric Light, Heat and Power Companies.

[See TELEGRAPH AND TELEPHONE COMPANIES.]

1. Electric light, heat and power companies.

2. Corporate powers enumerated. To supply light, heat and power in boroughs, towns, cities or districts. Right of entry upon streets and highways. Not to occupy streets without consent of councils.

3. Unauthorized interference with electrical appliances and machinery of electric light, heat and power companies, prohibited. Act not to interfere with lawful supervision and control of companies, ma-

chinery, etc., by municipality, or right of councils to pass ordinances regulating companies.

4. Penalty for violation of foregoing provisions.

5. Power of municipality to require electric light wires to be placed under ground. Regulation of use of conduits. Condemnation proceedings. Reserved rights of municipality.

6. Power of court to review ordinance upon appeal. Proviso.

1. [Corporations may be formed for] the manufacture and supply of gas, or the supply of light, heat and power by means of electricity, or the supply of light, heat or power to the public by any other means.

2. Companies incorporated under the provisions of this act for the supply of light, heat and power, or any of them, to the public by electricity, shall, from the date of the letters-patent creating the same, have the powers and be governed, managed and controlled as follows:<sup>1</sup>

Clause I. Every such corporation shall have the authority to supply light, heat and power, or any of them, by electricity, to the public in the borough, town, city or district where it may be located, and to such persons, partnership and corporations residing therein or adjacent thereto as may desire the same, at such prices as may be agreed upon, and the power also to make, erect and maintain the necessary buildings, machinery and apparatus for supplying such light, heat and

<sup>1</sup>The incorporation of companies for the supply of electric light to consumers was not contemplated by the general corporation Act of 1874, § 2, Cl. XI., P. L. 74, authorizing the incorporation of companies "for the manufacture and supply of gas, or the supply of light or heat to the public by any other means." *Scranton Electric Light and Heat Co.'s App.*, 122 Pa. 154. To remedy the omission the amendment of 1889, published above, was passed. Under this statute companies have no exclusive privileges, and cannot

be chartered to supply electricity to more than a single municipality. *Home Electric Co.*, 11 Pa. C. C. R. 179. Where they locate poles on the side of a country road, compensation must be made to the abutting land-owners. *Haverford Electric Light Co. v. Hart*, 13 Id. 369. The Act of June 2, 1891, P. L. 170, provides for the recovery for damages to trees along the public highways by telegraph, telephone and electric light companies. See title "Telegraph and Telephone Companies," *post*.

8 May 1889.

Right of entry upon streets and highways.

Not to occupy streets without consent of councils.

25 June 1895.  
§ 1. P. L. 302.

Unauthorized interference with electrical appliances and machinery of electric light, heat and power companies, prohibited.

Act not to interfere with lawful supervision and control of companies, machinery, etc., by municipality.

Or right of councils to pass ordinances regulating companies.

Id. § 2.

Penalty for violation of foregoing provisions.

28 April 1908.  
§ 1. P. L. 335.

Power of municipality to require electric light wires to be placed under ground.

power, or any of them, and to distribute the same, with the right to enter upon any public street, lane, alley or highway for such purpose, to alter, inspect and repair its system of distribution; *Provided*, That no company which may be incorporated under the provisions of this act shall enter upon any street in any city or borough of this commonwealth until after the consent to such entry of the councils of the city or borough in which such street may be located shall have been obtained.<sup>1</sup>

3. It is hereby made unlawful for any person or persons to connect or disconnect any electrical conductors belonging to any company using or engaged in the manufacture and supply of electric current for purposes of light, heat and power or either of them, or to make any connection with any such electrical conductors for the purpose of using or wasting the electric current, or to in any wise tamper with any meter used to register current consumed, or to interfere with the operating of any dynamo or other electrical appliance of such company, or to tamper with or interfere with the poles, wires or conduits used by such companies, unless such person or persons shall be duly authorized by, or be in the employ of such company; *Provided*, That nothing in this act shall in any way interfere with any lawful supervision and control of electric light and power companies, their electric conductors, appliances, machinery and poles by the municipality within which such companies are doing business, or by the officers of such municipality, nor shall anything in this act interfere with any right now existing in the councils of any municipality to pass ordinances relating to and regulating such electric light and power companies.

4. Any person or persons found guilty of a violation of any of the provisions of section one of this act shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be imprisoned not exceeding one year, or fined not exceeding one thousand dollars, or both, or either, at the discretion of the court.

5. Within the police power of municipal authorities of cities of the third class and boroughs, in this commonwealth, there shall be included the right to define, by ordinance, a reasonable district within which all electric light wires shall be placed under ground, in conduits owned either by the municipality or by corporations owning such wires, or by corporations organized for the purpose of laying such conduits and renting space therein; *Provided*, That in all cases in which such conduits are owned by any private corporation, partnership or individual, there shall be reserved to the mu-

<sup>1</sup> Section 3 of this act provides for the acceptance of the provisions of the act by companies theretofore incorporated, the surrender of their former charters and the issuance of new letters-patent thereto by the governor, saving all existing rights: "*Provided*, That this act shall not

be so construed as to permit any corporation accepting its provisions to enter into any city or borough without assent of councils, except in so far as the councils thereof have heretofore, or shall hereafter give their assent thereto."

municipality, whether expressed in the ordinance or not, the right to regulate, by ordinance, the manner in which such conduit shall be used, and the terms and conditions and rate of rental to be charged for space therein, and also the right to take such conduits, either by purchase, upon agreement of the owners thereof and the municipality, or by condemnation proceedings; in which latter case the court of common pleas, or any judge thereof in vacation, shall, upon petition of the municipal authorities, appoint a jury of seven reputable citizens of the county, not residents of the municipality, and the proceedings shall be the same as are provided by law in the case of the condemnation of land by a railroad company. The municipal authorities shall not have the power to surrender or barter away any rights herein reserved, either by ordinance or contract, or otherwise.

28 April 1908.

Regulation of  
use of con-  
duits.Condemnation  
proceedings.Reserved  
rights of  
municipality.

6. The court of quarter sessions of the proper county shall have the right to review any ordinance passed in pursuance of this act, and to annul such ordinance if deemed to be unreasonable, upon appeal of any person, partnership or corporation interested; *Provided*, That such appeal be taken within thirty days from the approval and advertisement of such ordinance.

Id. § 2.

Power of court  
to review ordi-  
nance upon  
appeal.

Proviso.

## Engineer.

[See REGISTRY OF REAL ESTATE—TOPOGRAPHICAL SURVEY.]

1. Election of city engineer. Term. Vacancies.
2. Assistants.
3. Duties of engineer. To prepare plans and estimates. Certificate of municipal improvements. Certificate to be conclusive. To have charge of surveys and regulations.

1. The councils of each of said cities of the third class shall, in joint convention, on the second Monday of April, or as soon thereafter as practicable, elect by the vote of the majority of the members chosen to both branches, a competent civil engineer, who shall be styled the city engineer, and shall serve for a term of three years from the first Monday of May succeeding his election, and until his successor shall be duly qualified. All vacancies shall be filled by councils in like manner for the unexpired term.<sup>1</sup>

23 May 1889.  
Art. V., § 2.  
Ch. 47, P. L.  
254.Election of  
city engineer.

Term.

Vacancies.

2. The engineering matters of the city shall be under the superintendence, direction and control of the city engineer, and no department of the city shall employ or retain any additional engineer, except with the previous assent of councils, and the city engineer shall appoint such number of assistants and employes as councils shall authorize by ordinance.

16 May 1901.  
§ 36, P. L. 254.  
Assistants.

3. The city engineer shall perform such duties as councils shall prescribe with reference to the construction, reconstruction, maintenance and repair of all streets, roads, pavements, sewers, bridges, culverts, and other engineering work. He

Duties of  
engineer.

<sup>1</sup> The clause amended as above by Act of May 16, 1901, § 16, P. L. 235.

16 May 1901.

To prepare  
plans and  
estimates.Certificate of  
municipal im-  
provements.Certificate to  
be conclusive.To have charge  
of surveys and  
regulations.

shall prepare plans, specifications and estimates for all such work undertaken by such city, and shall whenever required furnish councils, the committees thereof, the mayor, public boards, or heads of departments, with reports, information or estimates on any city engineering work, or question submitted by either of them in their official capacities. He shall immediately after the completion of any municipal improvement, the cost and expense of which in whole or in part is to be paid by the abutting property, make a certificate in which he shall state the day or time on which the particular improvement was completed, and shall file the same with the city clerk, who shall enter the said day or time of completion in a book to be by him kept for said purposes, and the said day or time mentioned in said certificate shall be conclusive on all parties as to the time the said work was completed; and the time of completion of the work referred to in this section, and in other parts of the act to which this is an amendment, shall be taken to mean the time of the completion of the whole contract for the improvement. He shall also furnish to said clerk a certificate showing the time on which any such particular improvement was commenced, and such certificate shall be conclusive evidence of the time when the said improvement was begun, and an entry of such date shall be made by said clerk in the books aforesaid. The said city engineer shall also have the charge and direction of all surveys and regulations authorized by any act of assembly or ordinance of such city, and shall perform such other duties as councils shall direct.<sup>1</sup>

<sup>1</sup> This and the foregoing section are contained as amendments to Article XVI. of the Act of May 23, 1889, relative to

registry of real estate, but embrace new matter more properly classified under the title to which they are here assigned.

## Fines and Penalties.

1. Penal actions and proceedings to be in name of city. Proceedings for violation of ordinances, how to be conducted. When process to be returnable. Right of appeal. Fines to be paid into city treasury. Alderman may hold mayor's police court. City not to be liable for fees.

2. Appeals in cities of third class, regulated.

3. Appeals in cases of summary conviction. Costs and security.

4. Maintenance of prisoners committed in default of payment of fines to be paid by municipality.

23 May 1889.  
Art. VII., § 8.  
P. L. 300

Penal actions  
and proceed-  
ings to be in  
name of city.

Proceedings for  
violation of or-  
dinances, how  
to be con-  
ducted.

1. All actions, prosecutions, complaints and proceedings for the violation of the ordinances of the city, and for fines, penalties and forfeitures imposed thereby, shall be instituted in the corporate name of the city, and may be conducted in the manner prescribed by law. Proceedings for the violation of the city ordinances may be commenced by warrant or summons, at the discretion of the mayor or alderman before whom the complaint is made; but no warrant shall be issued except upon complaint, upon oath or affirmation, specifying the ordinance for the violation of which the same is issued;<sup>1</sup> and all process shall be directed to, and served by any policeman or

<sup>1</sup> See *Pittston v. Rosenthal*, 9 Kulp 547.

constable of the city, who shall execute the same anywhere within the city, or in the county of which it is part, or elsewhere, as may be provided by law. Warrants shall be returnable forthwith, and every summons shall be returnable in not less than five nor more than eight days from the date thereof, and upon such return the like proceedings shall be had in all cases as are or may be directed by law in relation to summary convictions or proceedings for the recovery of penalties before justices of the peace, with the same right of appeal from any final judgment entered therein.<sup>1</sup> All fines and penalties for the violation of the city ordinances shall be paid over by the magistrate before whom the same are recovered, into the city treasury, monthly, accordingly to a statement thereof, certified by oath or affirmation before the city controller, and filed with him. Any alderman of the city may, at the request of the mayor or acting mayor, where either are for any reason unable to act, attend the mayor's police court, and there perform all such duties and exercise all such powers as to which he has concurrent jurisdiction with the mayor, and for such services shall be allowed his statutory fees; *Provided*, That the city shall not be liable therefor.<sup>2</sup>

23 May 1880.  
Art. VII.

When process  
to be return-  
able.

Right of  
appeal.

Fines to be  
paid into city  
treasury.

Alderman may  
hold mayor's  
police court.

City not to be  
liable for fees.

2. If any person shall think himself aggrieved by any judgment against him as defendant, by the mayor or any alderman of any of the said cities of the third class, in any action, prosecution or proceeding for any fines, penalties or forfeitures, imposed or enacted by or under any law or statute of this commonwealth relative to the said city, such person may, if the said judgment shall exceed the sum of five dollars, exclusive of costs, appeal from the said judgment to the court of common pleas of the county, in the manner and subject to the same requirements as is provided by law for appeals from justices of the peace.<sup>3</sup>

23 May 1874.  
§ 33. P. L. 248.

Appeals in  
cities of third  
class, regu-  
lated.

3. In all cases of summary conviction in this commonwealth, before a magistrate or court not of record, the defendant may, within five days after such conviction, appeal to the court of quarter sessions of the county in which such magistrate shall reside, or court not of record shall be held, upon entering into good and sufficient recognizance, with one or more sureties, to answer said complaint on a charge of misdemeanor before said court; and either party may also appeal from the judgment of a magistrate, or a court not of record, in a suit for a penalty, to the court of common pleas of the county in which said judgment shall be rendered, upon allow-

17 April 1876.  
§ 1. P. L. 29.

Appeals in  
cases of sum-  
mary convic-  
tion.

<sup>1</sup> See *Johnstown v. Rose*, 28 Pa. C. C. R. 188.

<sup>2</sup> The section amended as above by Act of May 16, 1901, § 22, P. L. 239. In such case the record must show that the alderman is acting by the request of the mayor. *Commonwealth v. Durham*, 11 Dist. R. 663, which see as to the requirements of the docket entries in cases of summary conviction; also *Scranton v. Clark*, 14 Id. 648.

<sup>3</sup> Upon a certiorari it is essential to the validity of the magistrate's record that it contain a finding that a specific act has been committed by the defendant, and also that it has been committed within the county. *Noftsker v. Commonwealth*, 8 Dist. R. 572. As to requisites of record in actions for violation of city ordinances, see *City v. Duncan*, 4 Phila. R. 145; *Commonwealth v. Hill*, 3 Dist. R. 216.

17 April 1876.

Costs and  
security.28 March 1906.  
§ 1. P. L. 61.Maintenance of  
prisoners com-  
mitted in de-  
fault of pay-  
ment of fines  
to be paid by  
municipality.

ance of said court, or any judge thereof, upon cause shown; *Provided*, That all appeals from judgments for penalties shall be upon such terms as to payment of costs, and entering bail, as the court or judge allowing the appeal shall direct.<sup>1</sup>

4. Hereafter, when a prisoner shall be committed to any county jail or prison in this commonwealth for the non-payment of a fine or penalty imposed for the violation of a city or borough ordinance, or an ordinance of a township of the first class, the expense of maintaining such prisoner during his confinement by virtue of such commitment shall be borne and paid by the city, borough or township of the first class to which such fine was payable; and the county in which such city, borough or township of the first class is located shall not be liable to the sheriff for such maintenance.

<sup>1</sup> The section amended as above by the Act of April 22, 1906, P. L. 284. This act was passed to carry into effect Section 14 of Article V. of the constitution, and is of general application. *Commonwealth v. McCann*, 88 W. N. C. 1. The inferior magistrate has no authority to allow the appeal; it must be allowed by the court to which the appeal is taken and for cause shown. *McGuire v. Shandoah*, 109 Pa. 618; *Commonwealth v. Eichenberg*, 140 Id. 158; *Commonwealth*

*v. Hendley*, 7 Super. Ct. R. 356; *Board of Health v. Decker*, 8 Dist. R. 362; *Wilkesbarre v. Stewart*, 16 Super. Ct. R. 347; *Commonwealth v. Manager of House of Correction*, 10 Dist. R. 371. As to payment of costs on appeal by municipal corporation, see *Commonwealth v. Batdorf*, 7 Pa. C. C. R. 242. Appeals from summary convictions do not entitle the defendant to a trial by jury. *Commonwealth v. Waldman*, 140 Pa. 89.

## Fire-Escapes.

1. Certain buildings to be provided with external fire-escapes. Description.

2. Duty of owners, trustees, etc., to erect such fire-escapes. Other devices of escapes may be adopted.

3. Fire-escapes to be examined and approved by fire commissioners and marshal. Certificate of approval to be given. County commissioners to act in certain counties.

4. Penalty for non-compliance with act. Liability of owners, civil and criminal, for neglect. By whom action may be maintained. Provision.

5. Additional means of escape to be provided in certain buildings. Chain and rope to be attached to windows. Appliances to be approved by fire commissioners, or

county commissioners. Provision where floors not sub-divided. One of every three windows to be furnished with chain and rope. How ropes to be kept for use.

6. Hotels, factories, etc., to be provided with lights in hallways at night. Alarms or gongs to be kept ready for use. Location of apparatus to be designated by fire commissioners or county commissioners. Certificates of approval to be granted. Chains and ropes may be dispensed with in hospitals and asylums.

7. Penalty for neglect to furnish fire-escapes, lights and fire signals. Civil actions for damages to be maintainable for loss of life or personal injuries.

8 June 1886.  
§ 1. P. L. 68.Certain build-  
ings to be pro-  
vided with ex-  
ternal fire  
escapes.

1. All the following described buildings within this commonwealth, to wit: Every building used as a seminary, college, academy, hospital, asylum or hotel for the accommodation of the public, every store-house, factory, manufactory or workshop of any kind in which employees or operatives are usually employed at work in the third or any higher story, every tenement house or other building in which rooms or floors are usually let to lodgers or families, every public hall or place of amusement, every parochial or public school building, and every building used in whole or in part for offices, when any of such buildings are three or more stories in height, except buildings used in whole or in part for offices which are of fire-proof construction, shall be provided with a permanent, safe, external means of escape therefrom in case of fire, inde-

pendent of all internal stairways; the number and location of such escapes to be governed by the size of the building and the number of its inmates, and arranged in such a way as to make them readily accessible, safe and adequate for the escape of said inmates; such escapes to consist of outside open iron stairways of not more than forty-five degrees slant, with steps not less than six inches in width and twenty-four inches in length. And all of said buildings capable of accommodating from one hundred to five hundred or more persons as operatives, guests or inmates, shall be provided with two such stairways, and more than two stairways if such be necessary to secure the speedy and safe escape of said inmates in case the internal stairways are cut off by fire or smoke.

2. It shall be the duty of the owner or owners, in fee [or] for life, of every such building, and of the trustee or trustees of every estate, association, society, college, seminary, academy, hospital or asylum, owning or using any such building, and of the board of education, or board of school directors having charge of any such school building, to provide and cause to be securely affixed outside of every such building such permanent external uninclosed fire-escape; *Provided*, That nothing herein contained shall prohibit any person whose duty it is under this act to erect fire-escapes, from selecting and erecting any other and different device, design or instrument, being a permanent, safe, external means of escape, subject to the inspection and approval of the constituted authorities for that purpose.<sup>1</sup>

3. It shall be the duty of the board of fire commissioners, in conjunction with the fire marshal of the district, where such commissioners and fire marshal are elected or appointed, to first examine and test such fire-escape or escapes, and, after upon trial, said fire-escape or escapes should prove to be in accordance with the requirements of section one of this act, then the said fire marshal, in connection with the fire commissioners, or a majority of them, shall grant a certificate approving said fire-escape, thereby relieving the party or parties to whom such certificate is issued from the liabilities of fines, damages and imprisonment imposed by this act; *Provided, further*, That in counties where no such fire marshal or fire commissioners exist, then the county commissioners in each said county shall be the board of examiners, and shall grant certificates of approval when escapes are erected in accordance with the requirements of section one of this act.<sup>2</sup>

4. Every person, corporation, trustee, board of education and board of school directors neglecting or refusing to comply with the requirements of section one of this act, in erecting said fire-escape or escapes, shall be liable to a fine not ex-

<sup>3</sup> June 1885.

Description.

Duty of owners, trustees, etc., to erect such fire escapes.

Other devices of escapes may be adopted.

Id. § 2.

Fire escapes to be examined and approved by fire commissioners and marshal.

Certificate of approval to be given.

County commissioners to act in certain counties.

Id. § 3.

Penalty for non-compliance with act.

<sup>1</sup> See, as to the construction of this proviso, *Sewell v. Moore*, 166 Pa. 570. The entire section amended as above by the Act of July 12, 1897, P. L. 259.

<sup>2</sup> See, as to the effect of the certificate of approval and its bearing as evidence, *Sewell v. Moore*, 166 Pa. 570.

3 June 1885. ceeding three hundred dollars, and also be deemed guilty of a misdemeanor, punishable by imprisonment for not less than one month, or more than two months. And in case of fire occurring in any of said buildings in the absence of such fire-escape or escapes, approved by certificate of said officials, the said person or corporations shall be liable in an action for damages, in case of death or personal injuries sustained in consequence of such fire breaking out in said building, and shall also be deemed guilty of a misdemeanor, punishable by imprisonment for not less than six months, nor more than twelve months; and such action for damages may be maintained by any person now authorized by law to sue as in other cases of similar injuries; *Provided*, That nothing in this act shall interfere with fire-escapes now in use approved by the proper authorities.

Liability of owners, civil and criminal, for neglect.

By whom action may be maintained.

Proviso.

3 June 1885.  
§ 1. P. L. 65.

Additional means of escape to be provided in certain buildings.

Chain and rope to be attached to windows.

Appliances to be approved by fire commissioners, or county commissioners.

Provision where floors not subdivided.

One of every three windows to be furnished with chain and rope.

5. In addition to the means of escape required in section one of the act to which this is a supplement, it shall be the duty of the owner or owners, in fee or for life, of every building constructed more than two stories high, and used or intended to be used as a hotel, factory, manufactory, work-shop, tenement house, school, seminary, college, academy, hospital, asylum, hall or place of amusement, and of the trustee or trustees of every estate, association, society, college, academy, hospital or asylum, owning or using any building constructed more than two stories high, and used, or intended to be used for any of said purposes, and of the board of education or board of school directors having charge of any building constructed more than two stories high, and used, or intended to be used as a public school, to provide and cause to be securely affixed to a bolt through the wall over the window-head inside of at least one window in each room on the third floor, and in each room on each higher floor of every such building, a chain at least ten feet in length, with a rope at least one inch in diameter securely attached thereto, of sufficient length to extend to the ground, or such other appliances as may be approved by the board of fire commissioners of any city or county having a board of fire commissioners, or by the county commissioners of any county where there is no board of fire commissioners; *Provided, however*, That when the third floor, or any higher floor of any such building is not sub-divided into rooms, then at least six windows of each of such floors shall be provided with such chains and ropes, or such other appliances as may be approved by any board of fire commissioners, or by the county commissioners of any county where no board of fire commissioners shall exist; *And provided further*, That whenever any room on the third floor, or on any higher floor of any such building shall contain more than three windows then at least one window out of every three windows in every such room shall be provided with such chain and rope, or other such appliance as may be approved by any board of fire



commissioners, or by the county commissioners of any county<sup>3</sup> June 1885.  
 having no board of fire commissioners. And each of such ropes shall be coiled and kept in an unlocked box in an unobstructed place, near the inside sill of the window to which such rope is attached.

How ropes to be kept for use.

6. And in all hotels, factories, manufactories, work-shops, Hotels, factories, etc., to be provided with lights in hallways at night.  
 schools, seminaries, colleges, hospitals, asylums, halls or places of amusement, or other places mentioned in this act, the hallways and stairways shall be promptly [properly] lighted at night, and at the head and foot of each flight of stairs, and at the intersection of all hallways with main corridors, shall be kept during the night a red light; and one or more proper alarms or gongs capable of being heard throughout the building shall always remain easy of access and ready for use in each of said buildings to give notice to the inmates in case of fire. And every keeper of such hotel, factory, manufactory, work-shop, school, seminary, college, hospital, asylum, hall or place of amusement shall keep posted in a conspicuous place in every sleeping room a notice descriptive of such means of escape. And the board of fire commissioners and the county commissioners of any county having no board of fire commissioners, shall have the right to designate the location of the chains and ropes, or other such appliance, in conformity with this act, to be attached to any building under the provisions of this act, and shall grant certificates of approval to every person, firm, corporation, trustees, board of education and board of school directors complying with the requirements of this act, which certificates shall relieve the party or parties to whom the same shall be issued from the liabilities, fines, damages and imprisonment imposed by this act. And the board of fire commissioners and the county commissioners of any county having no board of fire commissioners, may direct that the foregoing requirements, in so far as they relate to the placing and keeping of chains and ropes in hospitals and asylums may be dispensed with whenever in their judgment the same would be unnecessary.<sup>1</sup>

Alarms or gongs to be kept ready for use.

Location of apparatus to be designated by fire commissioners or county commissioners.

Certificates of approval to be granted.

Chains and ropes may be dispensed with in hospitals and asylums.

7. Every person, corporation, trustee, board of education and board of school directors neglecting or refusing to comply with the requirements of the first section of this act, shall be liable to a fine not exceeding three hundred dollars, to be collected as fines are now by law collectible, and shall also be deemed guilty of a misdemeanor, punishable by imprisonment for not less than one month, nor more than twelve months. And in case of fire occurring in any such building not provided with the chains and ropes or such other appliances as may be required by any board of fire commissioners, or by the county commissioners of any county where no board of fire commissioners shall exist, in accordance with the requirements with [of] the first section of this act, the person,

Id. § 2.

Penalty for neglect to furnish fire escapes, lights and fire signals.

<sup>1</sup> So amended by Act of May 9, 1889, P. L. 169.

## 90 FIRE ESCAPES—FIRE—FALSE ALARM—FIRE MARSHAL.

8 June 1885. persons, trustee, trustees, corporation, board of education or board of school directors who or which neglected or refused to provide such building with the chains and ropes, or such other appliances as aforesaid, shall be liable in an action for damages in case of death or personal injury being caused in consequence of such fire breaking out in said building, and such action may be maintained by any person or persons now authorized by law to sue in other cases for injuries caused by neglect of duty.

Civil actions for damages to be maintainable for loss of life or personal injuries.

### Fire—False Alarm.

1. Raising of false alarm of fire to be misdemeanor. Penalty.

22 May 1895.  
§ 1. P. L. 112.

Raising of false alarm of fire to be misdemeanor.

Penalty.

1. Any person or persons who shall knowingly, wantonly and wilfully give or raise, or cause to be given or raised, a false alarm of fire by ringing of fire bells, or giving any other common or recognized alarm of fire, then and there well knowing the same to be false, shall be guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine not exceeding one hundred dollars, and to undergo imprisonment not exceeding one year, both or either, in the discretion of the court.

### Fire Marshal.

[See FIRE-ESCAPES.]

1. Office of fire marshal may be created by ordinance. Powers of marshal in investigating cause of fires. Penalty for obstructing marshal in discharge of his duty.

2. Mayor may issue subpoenas in investi-

gations before marshal. Marshal may administer oaths.

3. Chief of police or chief of fire department may be fire marshal.

24 June 1896.  
§ 1. P. L. 268.

Office of fire marshal may be created by ordinance.

Powers of marshal in investigating cause of fires.

Penalty for obstructing marshal in discharge of his duty.

Id. § 2.

Mayor may issue subpoenas in investigations before marshal.

1. The councils of every city of the third class in this commonwealth may, by ordinance, provide for the creation of the office of fire marshal, to be appointed by the mayor, by and with the approval and consent of the select council, biennially, and such fire marshal, under the instructions and orders of the mayor, be authorized to enter any building or premises wherein a fire has at any time occurred, for the purpose of making such examination as may be deemed necessary to ascertain the cause of burning; and any person preventing or obstructing, or attempting to prevent or obstruct said fire marshal while in the discharge of the duty aforesaid, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding fifty dollars, or undergo an imprisonment not exceeding three calendar months, or both, at the discretion of the court.

2. That the mayor of such city shall be, and is hereby authorized, whenever in his judgment the occasion demands it, to issue [a] subpoena in the name of the state of Pennsylvania to any person or persons, requiring them to attend before him or the fire marshal at such time and place as may be named

in said subpoena, then and there to testify, under oath or affirmation, which the fire marshal, in the absence of the mayor, is hereby empowered to administer, as to the origin of the fire occurring within the bounds of such city, and also as to any facts or circumstances that may be deemed important to secure the detection and conviction of any party or parties guilty of the offense of arson or attempted arson.

24 June 1896.  
Marshal may administer oaths.

3. If councils of such city shall by ordinance so provide, the chief of police, or the chief of the fire department of such city, may be made ex-officio fire marshal thereof, and in such case all the powers and duties herein given to or imposed upon such fire marshal shall be enjoyed and exercised by such chief of police or chief of the fire department, as the case may be.

Id. § 3.  
Chief of police or chief of fire department may be fire marshal.

## Gas, Heat and Water Companies.

1. Powers of companies chartered under the general corporation act of 1874.

2. Powers of heat, light and fuel companies. Right of eminent domain. Erection of buildings, machinery and apparatus. To occupy streets and highways, subject to local regulations as to grades. Consent or municipal authorities. Distribution of gas regulated.

3. Powers of water companies. Appropriation of streams. Construction of works.

To conform to street regulations. To make compensation for damages.

4. Franchises of gas companies to be exclusive. Jurisdiction of courts upon complaints of impurity or deficiency of supply.

5. Provision relative to supervisory power of courts extended to all gas and water companies.

6. Practice in such cases.

7. Appeal.

8. Water companies not to exercise eminent domain.

1. Companies incorporated under the provisions of this statute for the supply of water to the public, or for the manufacture and supply of light, heat and fuel, or any of them, by any process of manufacture, shall, unless otherwise provided by this act, from the date of the letters-patent creating the same, have the powers and be managed, governed and controlled as hereinafter provided.<sup>1</sup>

29 April 1874.  
§ 34. P. L. 98.  
Powers of companies chartered under the general corporation act of 1874.

2. I. Where any such company shall be incorporated for the supply of heat, light and fuel, or any of them, by any process of manufacture, it shall have authority to supply such heat, light and fuel, or any of them, to the territory named in its articles of association (which shall never cover more than a single county), and to such persons, partnerships and corporations residing therein, or adjacent thereto, as may desire the same, at such prices as may be agreed upon, and shall have the power of eminent domain to appropriate property, so far as may be necessary to enable it to acquire that which is necessary for its plant (whether the same be in the county named in its articles of association, or elsewhere), and for its lines of distribution; and the power also to make, erect and maintain the necessary buildings, machinery and apparatus for producing heat, light and fuel, or any of them, and to distribute the same; with the right to enter upon any public street, lane, alley or highway, for such purpose, to alter, inspect and repair its system of distribution, doing as little damage as possible.

Powers of heat, light and fuel companies.

Right of eminent domain.

Erection of buildings, machinery and apparatus.

To occupy streets and highways, subject to local regulations as to grades.

<sup>1</sup> This paragraph and clauses 1 and 3, *infra*, so amended by the Act of June 2, 1887, P. L. 310.

20 April 1874.

Consent of  
municipal  
authorities.

Distribution  
of gas regu-  
lated.

Powers of  
water com-  
panies.

Appropriation  
of streams.

Construction  
of works.

age to said streets, lanes, alleys and highways, and impairing the free use thereof as little as practicable, and subject to such regulations as the councils of any borough or city, whose highways may be occupied, shall adopt in regard to grades, or for the protection and convenience of public travel over the same; *Provided*, That no company, which may now or hereafter be incorporated under the provisions of this act, shall enter upon any street, in any city or borough of this commonwealth until after the consent to such entry, of the councils of the city or borough in which such street may be located shall have been obtained.<sup>1</sup> And the said right of eminent domain shall be exercised in the mode prescribed and according to the provisions of the forty-first section of the act, with this proviso, however, that where any such company shall use its system of distribution for the conveyance of gas for any of the purposes aforesaid at a greater pressure than four ounces per square inch of pressure, or where the gas manufactured shall contain more than ten per cent. of carbonic oxide, such system of distribution shall be provided with suitable appliances for preventing, or taking up any leakage, so that danger to life, property and vegetation may be avoided.

3. II. Where such companies shall be incorporated for the supply of water to the public, or for storing and transportation or supply of water and water power for commercial and manufacturing purposes, they shall have power to provide, erect and maintain all works and machinery necessary or proper for raising and introducing into the town, borough, city or district where they may be located a sufficient supply of pure water, or water and water power as aforesaid, and for that purpose may provide, erect and maintain all proper buildings, cisterns, reservoirs, pipes and conduits, for the reception and conveyance of water, or water power, and it shall have power to appropriate so much of the water from the rivers, creeks, canal water-rights and easements, within or without the limits of the city, borough or place in which said company may by its charter be located, as may be necessary for its purposes, and all damage done thereby shall be ascertained, recovered and paid as provided for in the forty-first section of the act to which this is a supplement; and it is further authorized and empowered by itself, its agents, engineers and workmen, and with its and their tools, carts, wagons, beasts of draught or burden, to enter upon such lands and enclosures, streets, lanes, alleys, roads and highways and bridges, as may be necessary to occupy or to obtain materials for the construction of said works, and to occupy, ditch and lay pipes through the same, and the same from time to time to repair, subject

<sup>1</sup> See *Gas and Water Co. v. Water Co.*, 182 Pa. 17. Previous to this amendment municipal consent had been held to be unnecessary. *Philadelphia Steam, etc., Co. v. Philadelphia*, 15 W. N. C. 57; *Reading*

*v. Consumers' Gas Co.*, 41 Leg. Int. 428. But such corporations have no right under the power of eminent domain to lay pipe through private property. *Sterling's App.*, 17 W. N. C. 69.

to such regulations in regard to streets, roads, lanes and other highways, and impairing the free use thereof as little as possible, and subject to such regulations as the councils of said borough, town, city or district may adopt in regard to grades, or for the protection and convenience of public travel over the same; and if any injury be done to private property, the said company shall make compensation therefor in the manner provided for in the forty-first section of this act; *Provided*, That this act shall not apply to private spring or private water supplies.<sup>1</sup>

<sup>29</sup> April 1874.

To conform to street regulations.

To make compensation for damages.

4. III. The right to have and enjoy the franchises and privileges of such corporation for the manufacture of gas, for light only, shall be an exclusive one<sup>2</sup> within the district or locality covered by its charter; and no other company shall be incorporated for the manufacture of gas to supply light only to the public until the said corporation shall have from its earnings realized and divided among its stockholders, during five years, a dividend equal to eight per centum per annum upon its capital stock; *Provided*, That said corporations shall at all times furnish pure gas and water, and any citizen using the same may make complaint of impurity or deficiency in quantity, or both, to the court of common pleas of the proper county, by bill filed, and after hearing the parties touching the same, the said court shall have power to make such order in the premises as may seem just and equitable,<sup>3</sup> and may dismiss the complaints or compel the corporation to correct the evil complained of.<sup>4</sup>

Franchisees of gas companies to be exclusive.

Jurisdiction of courts upon complaints of impurity or deficiency of supply.

5. That the provisions of the third clause of section thirty-four of the act approved April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four, entitled "An act to provide for the incorporation and regulation of certain corporations," which reads as follows; "*Provided*, That the said corporations shall at all times furnish pure gas and water; and any citizen using the same may make complaint of impurity or deficiency in quantity, or both, to the court of common pleas of the proper county, by bill filed, and, after hearing the parties touching the same, the said court shall have power to make such order in the premises as may seem just and equitable, and may dismiss the complaints or compel the corporation to correct the evil complained of," be and the same is hereby extended and made applicable to all gas and water companies incorporated under any of the laws of this commonwealth.

<sup>10</sup> June 1881.  
§ 1. P. L. 112.

Provision relative to supervisory power of courts extended to all gas and water companies.

<sup>1</sup> So amended by Act of May 16, 1880, P. L. 226. The Act of June 26, 1895, P. L. 319, makes it a misdemeanor maliciously to interfere or tamper with the property or apparatus of any gas company.

<sup>2</sup> See *White v. Meadville*, 177 Pa. 643; *Commonwealth v. Illuminating Co.*, 180 Id. 578; and the amending Act of June 24, 1895, P. L. 266, revoking exclusive rights of gas companies in existence prior

to the Act of 1874, and accepting its provisions.

<sup>3</sup> The supervisory power of the courts conferred by this section does not justify the preparation of a tariff of water rents. *Brymer v. Butler Water Co.*, 179 Pa. 231. See *Schroeder v. Water Co.*, 20 Super. Ct. R. 255; *Commonwealth v. Potter County Water Co.*, 212 Pa. 463.

<sup>4</sup> This clause amended as above by Act of June 24, 1895, P. L. 267.

10 June 1881.  
§ 2.

Practice in  
such cases.

6. All proceedings authorized by said proviso shall be in accordance with the rules of equity practice now existing; *Provided*, That all lawful fees and costs accruing in such proceeding shall be taxed and allowed as provided by the equity fee bill in the respective court, and paid by the unsuccessful party.

Id. § 3.

Appeal.

7. Either party may appeal to the supreme court, as in cases in equity.

18 April 1905.  
§ 1. P. L. 152.

Water com-  
panies not to  
exercise eminent  
domain.

8. No water company hereafter incorporated under any law shall have powers, or exercise the right of eminent domain as respects the appropriation of the streams, rivers or waters of this commonwealth, or any of them, nor the land covered thereby.

## Incompatible Offices.

[See ELECTIONS.]

1. Certain offices to be incompatible.
2. State and federal offices.
3. Penalty for exercising incompatible offices.
4. Justice of the peace and prothonotary.
5. Associate judge and justice of the peace.
6. District attorney not to be eligible to the legislature.
7. County commissioners to be ineligible to certain offices.
8. Aldermen and attorneys not to be prison inspectors.

9. Municipal offices.
10. Members of the legislature not to be councilmen.
11. Councilmen to be ineligible to certain offices.
12. Residence and removal.
13. Councilmen ineligible to offices in choice of councils.
14. And to city and county offices.
15. Members of congress and of the legislature.
16. Who not to be members of the board of health.

15 May 1874.  
§ 1. P. L. 138.

Certain offices  
to be incom-  
patible.

1. Every person who shall hold any office or appointment of profit or trust under the government of the United States, whether a commissioned officer or otherwise, a subordinate officer or agent, who is or shall be employed under the legislative, executive or judiciary departments of the United States, and also every member of congress, is hereby declared to be incapable of holding or exercising, at the same time, the office or appointment of justice of the peace, notary-public, mayor, recorder, burgess or alderman of any city, corporate town or borough, resident physician of the lazaretto, constable, judge, inspector or clerk of election under this commonwealth.<sup>1</sup>

Id. § 2.

State and fed-  
eral offices.

2. The holding of any of the aforesaid offices or appointments under this state is hereby declared to be incompatible with any office or appointment under the United States; and every such commission, office or appointment, so holden under the government of this state, contrary to the true intent and meaning of this act, shall be, and is hereby declared to be null and void.

Id. § 3.

Penalty for  
exercising in-  
compatible  
offices.

3. If any person, after the expiration of six months from the passing of this act, shall exercise any offices or appointments, the exercise of which is by this act declared to be in-

<sup>1</sup> See Const. Pa., Art. XII., Sec. 2. The offices of postmaster and county commissioner are incompatible. *Detrick v. Commonwealth*, 129 Pa. 151. As to ineligi-

bility of certain offices with that of election officers, see Const. Pa., Art. VIII., Sec. 15; title "Elections," § 5, *ante* p. 76.

compatible,<sup>1</sup> every person so offending shall, for every such offence, being thereof legally convicted in any court of record, forfeit and pay any sum not less than fifty, nor more than five hundred dollars, at the discretion of the court; one moiety of the said forfeiture to be paid to the overseers, guardians or directors of the poor of the township, district, county or place where such offence shall have been committed, to be applied to the support of the poor, and the other moiety thereof to the prosecutor who shall sue for the same.

4. No person hereafter elected shall be capable of holding and exercising at the same time the office of justice of the peace and that of prothonotary, or clerk of any court.

Id. § 4.

5. The offices of associate judge and justice of the peace shall be incompatible with each other.

Id. § 5.

6. No district attorney shall be eligible to a seat in the legislature, or to any other office under the laws and constitution of the state, during his continuance in office.

Id. § 6.

7. No county commissioner shall be eligible to serve as member of the board of health, or director of the public schools, during his continuance in office.

Id. § 7.

8. No alderman or practicing attorney shall be eligible to the office of an inspector of the county prison.

Id. § 8.

9. No person shall, at the same time, be a member of more than one of the following bodies, to wit, the city councils, the guardians of the poor, the board of health and the inspectors of the county prison; nor shall any person be a member of any of these bodies who is at the same time a salaried officer under the same, or under any of them.

Id. § 9.

*Municipal  
offices.*

10. It shall not be lawful for any member of either branch of the legislature to hold or to exercise the office of councilman in any incorporated city of this commonwealth.

Id. § 10.

11. No member of council of any city shall be eligible to any office, employment or agency directly chosen by councils, or either branch of them, during the term for which he shall have been elected to councils.

Id. § 11.

12. Whenever, by the requirements of any law, a particular residence is a necessary qualification for the election or appointment of any officer, a removal from such residence shall operate as a forfeiture of the office.

Id. § 12.

*Residence and  
removal.*

13. No member of said councils shall hereafter hold any office or employment in the choice of said councils during the term for which he shall have been elected.<sup>2</sup>

Id. § 13.

14. Members of councils shall not hereafter hold any city

Id. § 14.

<sup>1</sup> Where the constitution or a statute declares that certain disqualifications shall render a person ineligible to a particular office, he must get rid of such disqualification before he is elected or appointed thereto; but if the prohibition extends only to the holding of an incompatible office, it is sufficient if he qualifies by resigning the first position before being sworn to that with which it is de-

clared incompatible. *Commonwealth v. Pyle*, 18 Pa. 519. Where a person holds two incompatible offices he has the right to elect which of them he shall retain. *Commonwealth v. Haeseler*, 161 Id. 92.

<sup>2</sup> By the Act of May 23, 1896, Sec. 8, councilmen may act as members of the board of revision of taxes and appeals. See title "Assessments." 5 ante p. 18.

15 May 1874.

Id. § 15.

Members of congress and of the legislature.

or county offices in the choice of the people while serving as a member of said councils.<sup>1</sup>

15. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this commonwealth; and no member of congress or other person holding any office, except of attorney-at-law or in the militia, under the United States or this commonwealth, shall be a member of either house during his continuance in office. They shall receive no other compensation, fees or perquisites of office for their services from any source, nor hold any other office of profit under the United States, this state, or any other state.

18 June 1895.  
§ 20. P. L. 208.

Who not to be members of the board of health.

16. No justice of the peace, member of council, or other officers, except school directors, constables or election officers, shall at the same time be a member of the board of health of such municipality, or hold any office or appointment under the same.<sup>2</sup>

<sup>1</sup>The offices of poor director and city councilman are incompatible. *Commonwealth v. Bohan*, 10 Kulp 80.

<sup>2</sup>This section amended as above by the Act of April 3, 1903, P. L. 138.

## Incorporation.

1. How cities of third class may be formed. Elections to be held in towns or boroughs. Notice of election. Tickets. Returns. General election laws to govern.

2. If majority against charter, no further proceedings to be had. If majority for char-

ter, governor to issue letters-patent. How boundaries to be defined.

3. Property of towns or boroughs to vest in city. Terms of existing officers. When city government to be organized. Pending suits and claims. Adjustment of existing indebtedness.

23 May 1889.

Art. I., § 1.  
P. L. 277.

How cities of third class may be formed.

1. Cities of the third class shall be chartered<sup>1</sup> whenever a majority of the electors of any town or borough, or of any two or more contiguous towns or boroughs, situated within the limits of the same county, and having together a population of at least ten thousand, according to the last preceding United States census, shall vote at any general election in favor of the same,<sup>2</sup> and the councils or corporate authorities of any such town or borough, or of any such contiguous towns or boroughs, as the case may be, may, on their own motion or upon the petition of one hundred or more qualified electors thereof, shall, by resolution duly passed and recorded among the minutes, submit the question of whether any such town or borough, or whether any such contiguous towns or boroughs shall become a city of the third class, to the qualified electors thereof, and shall give notice thereof during at least four weeks immediately prior to the next general election, in all of the newspapers published in said towns or boroughs,

Elections to be held in towns or boroughs.

Notice of election.

<sup>1</sup>The constitutionality, as a whole, of the Act of 1889, "providing for the incorporation and government of cities of the third class," of which the above is the first section, was affirmed by the Supreme Court in the case of *Lackawanna Twp., Harris' Appeal*, 160 Pa. 494 (1894), and the act has superseded, as the code for the

government of those cities, the Act of May 23, 1874, the provisions of which it was intended to supply.

<sup>2</sup>These provisions are complied with when a majority of those voting shall vote to that effect, although they may not constitute a majority of all the electors. *York Borough Case*, 3 Pa. C. C. R. 514.



that such an election will be held; and at the said general election it shall be the duty of the inspectors and judges of elections within said towns or boroughs to receive tickets, either written or printed, from the electors thereof qualified to vote by the constitution of this state, labelled on the outside, "city charter," and containing on the inside, "for city charter," or "against city charter," and to deposit said tickets in a box to be provided for that purpose; and the tickets so received shall be counted, and a return thereof made to the clerk of the court of quarter sessions of the proper county, and a duplicate return to the secretary of the commonwealth, each duly certified in the manner required by law; and in receiving, counting and making returns of the votes cast, the inspectors, judges and clerks of said election shall be governed by the laws of this commonwealth regulating general elections; and all the electors, inspectors, judges and clerks voting at, and in attendance upon the elections to be held under the provisions of this act shall be subject to the penalties imposed by the election laws of this commonwealth.<sup>1</sup>

<sup>23</sup> May 1889.  
Art. I.

Tickets.

Returns.

General election laws to govern.

2. Whenever by the returns of the election in any towns or boroughs aforesaid it shall appear that there is a majority against a city charter, no further proceedings shall be had, and it shall not be lawful to hold another election upon that question in such towns or boroughs for three years thereafter. If it shall appear by the said returns that there is a majority in favor of a city charter, the governor shall issue letters-patent, under the great seal of the commonwealth, reciting the facts, defining the boundaries of the said city, and constituting the same a body corporate and politic by the name of the city of ———; and the corporate authorities of any such towns or boroughs shall, within sixty days after such election, furnish to the secretary of the commonwealth the necessary information in regard to the boundaries of the said city.

Id. § 2.

If majority against charter, no further proceedings to be had.

If majority for charter, governor to issue letters-patent.

How boundaries to be defined.

3. All the property and estates whatsoever, real and personal, of the towns or boroughs which shall have thus become a city of the third class, are hereby severally and respectively vested in the corporation or body politic of said city, by the name, style and title given thereto as aforesaid, and for the use and benefit of the citizens thereof forever; and the charters of the said towns or boroughs shall continue in full force and operation, and all officers under the same shall hold their respective offices until the first Monday of April following the third Tuesday of February next succeeding the issuing of letters-patent to the said city, at which time the officers of said city chosen at the preceding municipal election shall enter upon their respective terms of service, and the city government shall be duly organized under this act.<sup>2</sup> All suits, prosecutions, debts and claims whatsoever shall thereupon become

Id. § 3.

Property of towns or boroughs to vest in city.

Terms of existing officers.

When city government to be organized.

<sup>1</sup>The section amended as above by the Act of April 10, 1905, P. L. 127.

<sup>2</sup>By necessary implication the city

charter meanwhile remains in abeyance. *Commonwealth v. McGroarty*, 148 Pa. 606.

23 May 1889.  
Art. I.

Pending suits  
and claims.

Adjustment  
of existing  
indebtedness.

transferred to the said city, which, in all suits pending, shall be substituted as party therein, and be under the management and control thereof, as fully and completely as if no alteration had been made in the said charter; and all claims and demands of whatsoever nature, whether payable presently or in future, existing against the said towns or boroughs when the said charter shall go into operation, shall, by force thereof, be recoverable from or against the said city; *Provided*, That where two or more towns or boroughs shall, under the provisions of this act, be consolidated into a city, the debt or debts of each of said towns or boroughs contracted prior to such consolidation shall be paid by such towns or boroughs respectively, and for the liquidation of such debts the authorities of such city shall have power to adjust and provide for the same, and to levy separate rates of taxation on all property subject to taxation within the boundaries of the said towns or boroughs respectively.

## Indebtedness.

[See ANNEXATION OF TERRITORY—BONDS—SINKING FUND.]

### I. CONSTITUTIONAL PROVISIONS.

1. Limitation of municipal indebtedness.
2. Tax for payment of municipal debt.

### II. INCREASE OF INDEBTEDNESS.

3. Indebtedness of municipality not to exceed seven per cent. of the assessed valuation. Penalty. Exception.
4. Debt equal to two per cent. on the valuation may be incurred. Bonds to be issued therefor. When principal to be payable. Annual tax to be levied. Application thereof.
5. Officers to prepare and file certain statements. Penalty for neglect. Copies to be evidence. Sale of bonds.
6. Vote of electors on increase of indebtedness. Notice to be given. Date of election.
7. Form of notice. Where election to be held. Mode of conducting election. Tickets. Returns. To be recorded. When election to be held. Expenses. General election laws to be applicable.

8. On majority against increase, no other election to be held for one year. How increase to be made, on affirmative vote. Annual tax to be levied.

### 9. Indebtedness defined.

10. Annual statements to be published.
11. How ordinances for borrowing money to be passed. Two-thirds vote required. Purpose of loan to be stated. Tax to be provided for, to pay interest and principal.

### III. REFUNDING AND REDEMPTION OF INDEBTEDNESS.

12. New bonds may be issued for existing indebtedness. Exemption of bonds from taxation.
13. Re-issue of bonds for existing indebtedness. Funding of floating debt.
14. Payment of existing indebtedness. Re-issue of bonds therefor. When bonds redeemable. To be exempt from local taxation. *Providiso*.

### I. Constitutional Provisions.

Const. 1874.  
Art. IX., § 8.

Limitation of  
municipal in-  
debtedness.

1. The debt of any county, city, borough, township, school district or other municipality or incorporated district, except as herein provided, shall never exceed seven per centum upon the assessed value of the taxable property therein, nor shall any such municipality or district incur any new debt, or increase its indebtedness to an amount exceeding two per centum upon such assessed valuation of property, without the assent of the electors thereof at a public election in such manner as shall be provided by law; but any city, the debt of which now exceeds seven per centum of such assessed valuation, may be authorized by law to increase the same three per

centum in the aggregate at any one time, upon such valuation.<sup>1</sup>

Const. 1874.  
Art IX.

2. Any county, township, school district or other municipality incurring any indebtedness shall, at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest, and also the principal thereof, within thirty years.

Id. § 10.

Tax for payment of municipal debt.

## II. Increase of Indebtedness.

3. Whenever the debt of any county, city, borough, township, school district, or other municipality or incorporated district within this commonwealth shall be equal to seven per centum upon the assessed value of the taxable property, as fixed by the last preceding assessed valuation therein,<sup>2</sup> it shall be unlawful to increase the same, and all such increase shall be void, and any obligation issued for such increase, or any part thereof, shall be of no binding force upon such municipality or district; and each of the officers thereof wilfully authorizing such increase, or executing any obligation therefor, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding ten thousand dollars, and undergo an imprisonment not exceeding one year, or either, at the discretion of the court trying the same; *Provided*, That any city, the debt of which now exceeds seven per centum of such assessed valuation, may, under authority of law, to be hereafter enacted, increase the same three per centum in the aggregate, at any one time, upon such valuation.

20 April 1874.  
§ 1. P. L. 65.

Indebtedness of municipality not to exceed seven per cent. of the assessed valuation.

Penalty.

Exception.

4. Any county, city, borough, school district, or other municipality or incorporated district may incur debt, or increase its indebtedness, to an amount in the aggregate not exceeding two per centum upon the assessed value of the taxable property therein, as fixed and determined by the last

Id. § 2.

Debt equal to two per cent. on the valuation may be incurred.

<sup>1</sup> The provision of the last clause of this section was of a temporary character; if a city whose indebtedness at the adoption of the constitution exceeded the seven per cent. limit subsequently reduced its debt below that limit, it could thereafter create or increase indebtedness in the same manner only as all other cities of the commonwealth. *Pepper v. Philadelphia*, 181 Pa. 566. Where the indebtedness of a city has reached the limit fixed by this section, it can incur no new obligations whatever which it does not possess the means to pay out of its current revenues. *City of Erie's App.*, 91 Pa. 398. Bonds issued to fund a debt incurred contrary to the constitutional provision are worthless, and no action against the corporation can be maintained thereon. *Millerstown v. Frederick*, 114 Id. 435. The amount due under the annual contracts and engagements of a municipality, not overreaching its current revenues, is not to be reckoned as an increase of indebtedness under the constitutional provision. *Wade v. Oakmont Borough*, 165 Id. 479; *Reuting v. Titus-*

*ville*, 175 Id. 512. Nor bonds issued to refund indebtedness incurred prior to 1874. *Hirt v. City of Erie*, 200 Pa. 223. But where the debt exceeds the constitutional limit, a contract for the purchase of the plant of a water works, to be paid for in twenty annual installments out of the current revenues, is in violation of the constitutional restriction. *Brown v. Corry*, 175 Id. 528. See, as to the further construction of the above section, *Wheeler v. Philadelphia*, 77 Pa. 338; *Pike County v. Rowland*, 94 Id. 238; *Wilkesbarre's App.*, 109 Id. 554; *Milwaukee Borough*, 162 Id. 374; *Pepper v. Philadelphia, supra*; *Houston v. Lancaster City*, 191 Pa. 143; *Royce v. Columbia Borough*, 192 Id. 146; *Addyston Pipe and Steel Co. v. Corry*, 197 Id. 41; *Davis v. Borough*, 31 Pitts. R. 145; *Keller v. Scranton*, 200 Pa. 130; 202 Id. 586; *Hirt v. City of Erie*, 200 Id. 223; *Dolan v. Lackawanna Township*, S. D. App., 10 Dist. R. 694.

<sup>2</sup> This means the valuation according to the city, not the county assessment. *Bruce v. Pittsburgh*, 166 Pa. 152.

20 April 1874. preceding assessed valuation thereof,<sup>1</sup> and the corporate authorities of such municipality may, by a vote thereof, duly recorded upon its minutes, authorize and direct the incurring or the increase of such debt to the amount aforesaid, and may issue coupon bonds or other securities therefor, in sums not less than one hundred dollars each, bearing interest at a rate not exceeding six per centum per annum, payable semi-annually, and the principal thereof reimbursable at a period not exceeding thirty years from the date at which the same is authorized. And an annual tax, commencing the first year after such debt shall be increased or incurred, sufficient for the payment of the interest thereon, and the principal of such debt within a period not exceeding thirty years from the date of such increase shall be forthwith assessed.<sup>2</sup>

5. Before issuing any such obligation or security, it shall be the duty of the principal officer or officers of such municipality or incorporated district, to prepare a statement, showing the actual indebtedness of such district, the amount of the last preceding assessed valuation of the taxable property therein, the amount of debt to be incurred, the form, number and date of maturity of the obligations to be issued therefor, and he shall make and append thereto his oath or affirmation of the truth of the facts therein stated, and shall file the said statement in the office of the clerk of the court of quarter sessions of the proper county; upon failure so to do, he shall be guilty of a misdemeanor, and on conviction thereof, shall be punished as provided in the first section of this act. Certified copies of the record of such statement, under the seal of said court, shall be competent evidence in all the courts of this commonwealth; *Provided*, That the bonds shall not be sold at less than their par value.<sup>3</sup>

6. The indebtedness of any county, city, borough, township, school district or other municipality or incorporated district in this commonwealth, may be authorized to be increased to an amount exceeding two per centum, and not exceeding seven per centum, upon the last preceding assessed valuation of the taxable property therein, with the assent of the electors thereof, duly obtained at a public election to be held in the said district or municipality. Whenever the corporate authorities of any county, city, borough, township, school [district] or other municipality or incorporated district, by their ordinance or vote, shall have signified a desire to make such

<sup>1</sup> The Act of May 19, 1897, P. L. 76, validates the bonds of municipalities issued since the 18th day of April, 1895, in excess of two per centum of the last assessed valuation, where otherwise issued according to law. See the Act of March 30, 1875, P. L. 39, validating bonds theretofore issued by cities of the third class for the construction of water works and purchase of land therefor; also the Act of June 4, 1901, P. L. 363, validating indebt-

edness of municipalities incurred prior to January 1, 1897, in the work of drilling for water.

<sup>2</sup> So amended by Act of April 13, 1897, P. L. 17, omitting the requirement that the annual tax shall be equal to at least eight per centum of the amount of the debt. See *Bruce v. Pittsburgh*, 166 Pa. 152.

<sup>3</sup> The entire section so amended by the Act of April 13, 1897, P. L. 17.

increase of indebtedness, they shall give notice, during at least thirty days, by weekly advertisements in the newspapers, not exceeding three in said district, and if no newspaper be published therein, by at least twenty printed handbills posted in the most public parts thereof, of an election to be held at the place or places of holding the municipal elections in said district or municipality, on a day to be by them fixed, for the purpose of obtaining the assent of the electors thereof to such increase of indebtedness.<sup>1</sup>

7. Said notice shall contain a statement of the amount of the last assessed valuation, of the amount of the existing debt, of the amount and percentage of the proposed increase, and for [of] the purposes for which the indebtedness is to be increased. Such election shall be held at the place, time and under the same regulations as provided by law for the holding of municipal elections; and it shall be the duty of the inspectors and judges of such elections to receive tickets, either written or printed, from electors qualified under the constitution of this state to vote in such district, labeled on the outside, "increase the debt," and containing in the inside the words, "no increase of debt," or "debt may be increased," also briefly the purpose and amount of increase, and to deposit said tickets in a box provided for that purpose, as is provided by law in regard to other tickets received at said election; and the tickets so received shall be counted, and a return thereof made to the clerk of the court of quarter sessions of the proper county, duly certified, as is required by law, together with a certified copy of the ordinance and the advertisement; and the said clerk shall make a record of the same, and furnish a certified copy thereof, under seal, showing the result, to the corporate authorities of such municipality, and the same shall be placed of record upon the minutes thereof. The corporate authorities of such municipality shall in all cases fix the time of holding such election on the day of the municipal or of the general election, unless more than ninety days elapse between the date of the ordinance or vote desiring such increase, and the day of holding the said municipal or general election. If any other day be fixed for such election, the expense of holding the same shall be paid by the municipality for the benefit of which it shall be held. In receiving and counting, and in making returns of the votes cast, the inspectors, judges and clerks of said election shall be governed by the laws of this commonwealth regulating municipal elections; and the vote shall be counted by the court as is now provided by general laws governing municipal elections, and all the penalties of the said election laws, for the violation thereof,

20 April 1874.  
Notice to be given.

Date of election.

Form of notice.

Where election to be held.

Mode of conducting election.

Tickets.

Returns.

To be recorded.

When election to be held.

Expenses.

General election laws to be applicable.

<sup>1</sup> The question must be solely upon the increase of the debt; councils cannot introduce any other question into the issue. *Bloomsbury Election*, 4 Dist. R. 671. The Act of June 23, 1897, P. L. 201, validates municipal bonds issued pursuant to

a vote of the people in cases where notice of the election was not published in the newspapers of the district in the manner required by the provisions of the above section of the Act of 1874.

20 April 1874.

are hereby extended to, and shall apply to the voters, inspectors, judges and clerks voting at, and in attendance upon the elections held under the provisions of this act.<sup>1</sup>

Id. § 4.

On majority  
against in-  
crease, no  
other election  
to be held for  
one year.

How increase  
to be made, on  
affirmative  
vote.

Annual tax  
to be levied.

8. Whenever, by the returns of such election, it shall appear that there is a majority voting for "no increase of debt," such increase shall not be made, nor shall any other election upon the same subject be held in that municipality for one year<sup>2</sup> from the date of such preceding election. If the return of such election shall show a majority voting that "debt may be increased," the corporate authorities of the municipality may increase the same to the amount named and specified in the notice given for the holding of such election, not exceeding seven per centum of the last assessed valuation of such municipality, in the manner and subject to all the requirements provided by the second section of this act for increasing indebtedness to an amount not exceeding two per centum of the last assessed valuation, including the amount named in the sworn statement to be filed in the office of the clerk of the court of quarter sessions of the proper county; and they shall, before issuing any obligations therefor, assess and levy an annual tax, the collection whereof shall commence the first year after the said increase, which tax shall be equal to and sufficient for and applied exclusively to the payment of the interest and the principal of such debt, within a period not exceeding thirty years from the date of such increase; and the moneys arising from such tax shall be applied at such periods as the municipality may stipulate in such obligations, to the redemption at par of the said outstanding obligations, according to their terms.<sup>3</sup>

Id. § 5.

Indebtedness  
defined.

Id. § 6.

Annual state-  
ments to be  
published.

9. The word "indebtedness," used in this act, shall be deemed, held and taken to include all and all manner of debt, as well floating as funded, of the said municipality; and the net amount of such indebtedness shall be ascertained by deducting from the gross amount thereof the moneys in the treasury, all outstanding solvent debts, and all revenues applicable, within one year, to the payment of the same.<sup>4</sup>

10. The corporate authorities of every such municipality or district shall, at the end of their fiscal year, prepare and

<sup>1</sup>The section so amended by Act of June 9, 1891, P. L. 252, as to construction of which see *Barr v. Philadelphia*, 191 Pa. 438; 8 Dist. R. 19. Municipal elections on the subject of increase of indebtedness are governed by this act, not by the subsequent election laws of June 19, 1891, P. L. 349, and June 10, 1893, P. L. 419. *Erans v. Willistown Township*, 168 Pa. 578. See the Act of May 25, 1897, P. L. 91, validating the increase of indebtedness of municipalities where the assent of the majority of the electors was obtained thereto according to the form of ballot provided for by the Acts of 1891 and 1893, at elections held under said acts. Other validating acts curing informalities in elections on the question

of the increase of municipal debts are those of February 13, 1901, P. L. 8; April 19, 1901, P. L. 80; April 23, 1903, P. L. 282, and April 10, 1905, P. L. 123.

<sup>2</sup>See *Keppelman v. Reading*, 14 Dist. R. 61.

<sup>3</sup>The section so amended by Acts of April 18, 1895, P. L. 36, and May 11, 1897, P. L. 53. The former is constitutional. *Sener v. Ephrata Borough*, 176 Pa. 80.

<sup>4</sup>In ascertaining the constitutional limitation of indebtedness of a city, the amount of securities to the credit of the sinking fund is properly deductible from the aggregate debt. *Brooke v. Philadelphia*, 162 Pa. 123; *Bruce v. Pittsburgh*, 168 Id. 152.

publish in at least two newspapers of said municipality, or of the county in which the same is situate, if so many be printed therein, a statement showing in detail the actual indebtedness, the amount of the funded debt, the amount of the floating debt thereof, the valuation of taxable property therein, the assets of the corporation, with the character and value thereof, and the date of maturity of the respective forms of funded debt thereof; and a neglect or failure so to do shall be a misdemeanor, punishable by fine not exceeding one thousand dollars.<sup>1</sup>

11. Whenever by the constitution and laws of this commonwealth any city of the third class shall be authorized to increase its indebtedness by borrowing money on the faith and credit of said city, the proposed ordinance to effect the loan shall be introduced at a stated meeting of the common council, and the draft thereof published in at least two of the newspapers of the city, if so many be published therein, once a week for four weeks before the final consideration and passage thereof by the said common council; and at any stated meeting of the select council, held at least one week after the final consideration of such ordinance by the common council, the select council may consider and act upon the same; but the select council shall not originate any ordinance for borrowing money, and no loan shall be authorized except by the vote of two-thirds of the whole number of members of each council. The specific purpose or purposes for which the said loan is authorized shall be distinctly set out in the said ordinance, and the moneys received for said loan shall not be used for any purposes other than those so stated; and the said city shall, at or before the time of authorizing the said loan [provide] for the collection of an annual tax sufficient to pay the interest and also the principal of the said loan within thirty years.<sup>2</sup>

<sup>20</sup> April 1874.

<sup>23</sup> May 1889.  
Art. XVIII.  
§ 2. P. L. 331.

How ordinances for borrowing money to be passed.

Two-thirds vote required.

Purpose of loan to be stated.

Tax to be provided for, to pay interest and principal.

### III. Refunding and Redemption of Indebtedness.

12. Any of the said cities of the third class may, in the manner prescribed by law, redeem its existing bonded indebtedness as fast as the same may become due and payable, by the issue of new bonds therefor, bearing interest at a rate not exceeding six per centum per annum, redeemable in not less than five years, and payable at any time not exceeding thirty years from the date of issue thereof, at the option of the said city. Said bonds shall be exempt from all taxation except for state purposes.

13. The existing indebtedness of any such municipality evidenced by outstanding bonds or certificates of indebtedness

<sup>23</sup> May 1889.  
Art. XVIII.  
§ 3. P. L. 331.

New bonds may be issued for existing indebtedness.

Exemption of bonds from taxation.

<sup>20</sup> April 1874.  
§ 7. P. L. 68.

<sup>1</sup> So amended by Act of April 12, 1875, P. L. 46.

<sup>2</sup> This section supplies the provisions of sec. 59 of the Act of May 23, 1874, P. L. 270, taken in connection with those of

sec. 11 of the same act, P. L. 234, prescribing the mode in which loan ordinances in cities of the third class shall be considered and passed.

20 April 1874.

Reissue of  
bonds for ex-  
isting indebt-  
edness.Funding of  
floating debt.

heretofore issued, may be provided for as the same shall mature, by a re-issue of bonds or certificates of indebtedness to the holders of said outstanding bonds or certificates, or by the issue and sale, at not less than par, of new bonds or certificates; and the present floating indebtedness of any such municipality may be funded by the issue and sale, at not less than par, of bonds or certificates of indebtedness, in sums not less than one hundred dollars each; *Provided*, That no such bonds or certificates shall be issued for a longer period than thirty years from the date thereof. And it shall be the duty of the proper corporate authorities of such municipality to provide for the payment of principal and interest of all such bonds in the manner pointed out in the fourth section of this act.

14 April 1881.  
§ 1. P. L. 10.Payment of  
existing in-  
debtedness.

14. In all cases where any county, city, borough, municipality or school district in this commonwealth has, by virtue of any general or special act of assembly, issued bonds or other interest-bearing evidences of indebtedness, with or without interest coupons attached, to secure any indebtedness of any such county, city, borough, municipality or school district which may have matured but remain unpaid and uncanceled, or are about to mature and become payable; or whenever any county, city, borough, municipality or school district shall have the option to redeem or pay any such bonds or interest-bearing evidences of indebtedness; or whenever holders of any bonds or interest-bearing evidences of indebtedness of any county, city, borough, municipality or school district which may not have matured or become redeemable are willing to surrender the whole or any part of such issue of bonds or interest-bearing evidences of indebtedness, it shall be lawful for any such county, city, borough, municipality or school district, for the purpose of redeeming or paying off any or all of the bonds or other interest-bearing evidences of indebtedness payable, redeemable or offered for redemption as afore-said, to issue and sell either registered or coupon bonds bearing interest at a rate not exceeding the rate the issue proposed to be refunded bears, and payable at any time not exceeding thirty years after the date thereof, and not exceeding in the aggregate the amount of the bonds or other evidences of indebtedness so redeemed or paid, and the said bonds so issued or sold in accordance with the provisions of this act shall be exempt from taxation except for state purposes; *Provided, however*, That all moneys for the redemption of the issue of bonds proposed to be refunded, placed in the sinking fund, if any, shall be first applied to the payment, as far as applicable, of the principal of such bonds, and the balance of such issue only shall be redeemed by the issue of new bonds.<sup>1</sup>

Re-issue of  
bonds therefor.When bonds  
redeemable.To be exempt  
from local  
taxation.

Proviso.

<sup>1</sup> So amended by Act of March 1, 1890, P. L. 6, which also repealed the second section of the act, giving the former hold-

ers of bonds preference in exchange for the new issue (construed in *Lloyd v. Altoona*, 134 Pa. 545).



## Junk Shops.

1. Keepers, etc., of junk shops to make record of purchases of certain materials.  
2. How record to be kept. To be open to police inspection.

3. Penalty for violation of act.  
4. Purchase of junk, rope, scrap iron, etc., from minors or unknown persons prohibited. Penalty.

1. From and after the passage of this act it shall be unlawful for any keeper, owner, proprietor or employe of any junk shop within any city within this commonwealth, or for any owner, proprietor or employe of any second-hand store within any such city, to barter, purchase, exchange, buy or accept from any person whatsoever, except plumbers holding licenses as such from such city, or the owner or owners of buildings from which the material is taken, any pipe, faucet, boilers, spigots, coils, or any other like material whatever, or to barter, purchase, exchange, buy, receive or accept any other second-hand goods, wares or merchandise of any kind or nature whatever, without providing and keeping books, and making therein at the time of such purchase, exchange, receiving or accepting, the entries hereinafter provided.

11 April 1899.  
§ 1. P. L. 37.  
Keepers, etc., of junk shops to make record of purchases of certain materials.

2. Every owner of such junk shops and second-hand stores shall provide and constantly keep a book, in which shall be fairly written down in the English language, at the time of every purchase of any such material, a description of all articles so purchased, the name and residence of the person from whom such purchase was made, and the day and hour of such purchase, and such books shall at all times be open to the inspection of any and every member of the police and detective forces of such city.

Id. § 2.  
How record to be kept.

3. Any person who shall violate, or neglect, fail or refuse to comply with all of the provisions of this act, or any of them, shall for every offense, upon conviction before any court of competent jurisdiction, be subject to a fine of not less than twenty, nor more than five hundred dollars, and in default of payment thereof be imprisoned for a period not exceeding ninety days.<sup>1</sup>

Id. § 3.  
Penalty for violation of act.

4. If any person or persons shall, after the passage of this act, buy or receive from minors, knowing them to be such, or from persons unknown to such person or persons so buying or receiving, or from persons pursuing no trade, labor or employment for a livelihood, any junk, rope, scrap, iron, brass, lead, copper or other metal, such person or persons shall be deemed guilty of a misdemeanor, and on conviction thereof in a court of quarter sessions of the proper county, shall be sentenced to pay a fine of not exceeding five hundred dollars, or to undergo an imprisonment of not more than one year, or both, at the discretion of the court.<sup>2</sup>

5 May 1899.  
§ 1. P. L. 247.  
Purchase of junk, rope, scrap, iron, etc., from minors or unknown persons prohibited.

<sup>1</sup> This act is constitutional. *Commonwealth v. Mintz*, 19 Super. Ct. R. 283.

<sup>2</sup> This act held to be constitutional in *Commonwealth v. Baister*, 23 Pa. O. C. R. 270.

## Legislative Department.

### [See ORDINANCES—TERMS OF MUNICIPAL OFFICERS—PUBLIC OFFICERS.]

1. Councils of cities of third class. Eligibility of members.
2. Qualifications of councilmen. Terms of members. Number of members. Proviso. Not to receive compensation.
3. First election of councilmen. Vacation of terms of existing officers.
4. Ballots to specify terms. Tie vote. Vacancies to be filled for unexpired term. Special elections. Mayor to give notice.
5. Terms of city and ward officers. Elections to fill vacancies.
6. Date for organization of councils. Inauguration of mayor.
7. City officers to take constitutional oath. On refusal to take oath, office to be forfeited. Penalty for violation of oath.
8. Councilmen to take constitutional oath. How administered. Councils to judge of qualifications of members. Contested elections. Rules of proceeding. Sessions to be public. Quorum. Vacation of seats of members for misconduct, etc.
9. Stated meetings. Special meetings. Notice of meetings.
10. Each branch to keep journal. Voting to be viva voce. Yeas and nays, when to be entered. No member to withhold vote.
11. Ordinances and resolutions to be approved by mayor. Veto. Passage of ordinance or resolution over veto. Vote to be by yeas and nays. Ordinance or resolution to be returned by mayor within fifteen days. Items of appropriation bills may be vetoed.
12. Proof of ordinances. When printed by authority, to be evidence. Penal ordinances to be published. Ordinances to be certified and recorded.

13. Fiscal year. Financial statement to be published annually. What statement to contain.

14. Annual estimates of receipts and expenditures. Interest, salaries and ordinary expenses to be first provided for. Tax rate to be based upon appropriations. Appropriations to be limited to receipts.

15. Joint sessions of councils. Quorum.
16. Councilmen privately interested in pending measure not to vote thereon. Penalty for so voting.

17. City officers not to be sureties for each other. Penalty.

18. Purchase of city warrants, etc., below face amount forbidden. Penalty.

19. Councils to prescribe number, duties and compensation of city officers. Extra compensation forbidden. Penalty for payment of unauthorized claims.

20. Councils authorized to issue subpoenas and compel attendance of witnesses and production of books, papers, etc., in investigations. Proceedings where witness refuses to testify, etc. Facts to be reported to court. Hearing and order. Commitment for contempt.

21. Liability of witness for perjury. Mileage and compensation.

22. Existing councils declared legally constituted. Ordinances and resolutions validated. Proviso.

23. Repeal. Existing officers continued and ordinances validated.

24. Councils to pass necessary ordinances.
25. Cities having but one branch of councils.

23 May 1889.  
Art. IV., § 1.  
P. L. 282.

Councils of  
cities of  
third class.

Eligibility of  
members.

23 May 1889.  
Art. VI., § 1.  
P. L. 296.

Qualifications  
of councilmen.

Terms of  
members.

Number of  
members.

Proviso.

1. The legislative power of every city of the third class shall be vested in the councils thereof, which shall consist of two branches, the select and [the] common council. No officer of the United States, or of the state of Pennsylvania (except notaries public or officers of the militia), nor any municipal or county officer, or employe of the city or of any department thereof, shall serve as a member of councils during his continuance in such office or employment.<sup>1</sup>

2. Members of the select council in cities of the third class shall be at least twenty-five years of age, and members of the common council twenty-one years of age. They shall have been citizens and inhabitants of the state four years, and inhabitants of the districts<sup>2</sup> which they respectively represent one year next before their election, and shall reside therein during their terms of service. Members of the select council shall be elected for the term of four years, and members of the common council for the term of two years. Each of the wards of each of said cities shall have one member of the select council and two members of the common council; *Provided*, That in cities containing fifteen wards or more, the representation in common council shall be one member for

<sup>1</sup> See title "Incompatible Offices" as to disqualification of councilmen under the Act of 1874 from holding certain other positions therein enumerated.

<sup>2</sup> See *Auchenbach v. Seibert*, 120 Pa. 159.

each ward, and that in cities containing four wards or less, there shall be elected one select councilman at large. Members of councils shall receive no compensation for their services.<sup>1</sup>

<sup>23 May 1889.</sup>  
Art. VI.  
Not to receive  
compensation.

3. At the first election held under this act the members of select council from odd numbered wards shall be chosen for two years, and those from even numbered wards shall be chosen for four years, and the members of common council from odd numbered wards shall be chosen for one year, and those from even numbered wards shall be chosen for two years, and thereafter members of the select council shall be chosen for four years, and members of [the] common council for two years, respectively. The term of mayors, controllers and treasurers and all members of councils now in office, in each of said cities, shall cease and determine on the first Monday of April next succeeding the date of the first election held under this act, and their successors shall be chosen as herein provided on the third Tuesday in February preceding thereto.

Id. § 2.  
First election  
of council-  
men.

4. Where members of councils are to be chosen at the same election for different terms, the ballots shall specify the respective terms,<sup>2</sup> and in case of a tie vote between two or more candidates having the highest number of votes for the same office, such candidates shall, in the presence of the branch, determine by lot which of them shall be entitled to hold the same. In all cases of vacancies occurring in any other manner than by the expiration of the term, the member or members elected to fill the same shall serve for the unexpired term of his or their predecessor or predecessors, and in case of vacancies arising by reason of the creation of a new ward, the member or members elected for such new ward shall serve for the same length of time as the unexpired terms of councilmen for like numbered wards, odd or even, as the case may be. Special elections to fill vacancies shall be held in the respective wards, in the manner provided by law,<sup>3</sup> upon such date as shall be fixed by the branch in which the same shall occur, of which at least ten days' previous public notice shall be given by the mayor by proclamation.<sup>4</sup>

Id. § 3.  
Ballots to  
specify terms.  
Tie vote.

Vacancies to  
be filled for  
unexpired  
term.

Special elec-  
tions.

Mayor to give  
notice.

5. The terms of members of councils and all other city and ward officers of said cities, except aldermen, elected upon the third Tuesday of February in any year, shall begin on the first Monday of April next ensuing thereto, and shall continue for the period fixed by law for the duration thereof in each particular case; and all elections for officers whose terms

<sup>23 May 1889.</sup>  
Art. IV., § 16.  
P. L. 285.

Terms of city  
and ward  
officers.

Elections to  
fill vacancies.

<sup>1</sup> An exception is made in Art. XV., § 5, of the act, as amended by the Act of May 23, 1895, prescribing a per diem compensation for councilmen serving as members of the board of revision of taxes and appeals. See title "Assessments," § 6, *ante*, p. 14. Though not entitled to compensation for services, general or special, councilmen may be reimbursed for moneys spent when delegated by councils to go to a certain place in performance of

their duties, but such bills should be itemized. *Olyphant Borough Case*, 6 Lackawanna L. N. 206.

<sup>2</sup> See *Milligan's App.*, 96 Pa. 222; *Contested Election of Gilleland*, Id. 224.

<sup>3</sup> The expenses of such special elections must be borne by the county in which the city is situated. *Johnstown v. Cambria County*, 21 Pa. C. C. R. 199.

<sup>4</sup> The section amended as above by Act of May 16, 1901, § 17, P. L. 235.

23 May 1889.  
Art. IV.

Id. § 17.

Date for or-  
ganisation of  
councils.

Inauguration  
of mayor.

Id. § 15.

City officers to  
take constitu-  
tional oath.

On refusal to  
take oath,  
office to be  
forfeited.

Penalty for  
violation of  
oath.

23 May 1889.  
Art. VI., § 4.  
P. L. 296.

Councilmen to  
take constitu-  
tional oath.

How admin-  
istered.

Councils to  
judge of  
qualifications  
of members.

Contested  
elections.

Rules of pro-  
ceeding.

Sessions to  
be public.

Quorum.

Vacation of  
seats of mem-  
bers for mis-  
conduct, etc.

will expire on the first Monday of April shall be held on the third Tuesday of February next preceding thereto.

6. The members of councils of the several cities of the third class shall assemble in their respective places of meeting, for the purpose of organization, at ten o'clock in the forenoon of the first Monday of April in each year, and the mayors of said cities shall be inaugurated and take the oath of office at twelve o'clock noon of the same day, at the commencement of their respective terms.

7. All officers of the several cities of the third class, whether elected or appointed, shall, before entering upon their respective duties, take and subscribe the oath prescribed by section first of article seven of the constitution of this commonwealth.<sup>1</sup> Any person refusing to take such oath shall forfeit his right to the office, and any person guilty of a violation thereof shall be deemed guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine not exceeding one thousand dollars, and to undergo an imprisonment not exceeding one year, or either, at the discretion of the court.<sup>2</sup>

8. Members of councils shall take the oath hereinbefore prescribed for city officers,<sup>3</sup> which oath shall be administered to the president-elect of each branch by the mayor or some other person authorized by law to administer oaths, and by the president to the members-elect and officers of the respective branch. Each branch shall judge of the qualifications of its members,<sup>4</sup> and contested elections shall be determined by the courts of law, in such manner as shall be directed by law, and each branch may determine the rules of its proceedings, which shall not be inconsistent with any joint rule adopted by the two branches. The sessions of councils shall be public, and a majority of each branch shall constitute a quorum, but a less number may adjourn from time to time, and shall have power to compel the attendance of absent members under such regulations and penalties as may be prescribed by ordinance or rule. Each branch shall have power to vacate the seat of any of its members for misbehavior, official misconduct or neglect of duty, and shall thereupon fill such vacancy in the manner prescribed in the preceding section.

<sup>1</sup> See, for the form of the constitutional oath, title "Public Officers," II.

<sup>2</sup> See Act April 18, 1874, P. L. 64, the punishment above provided corresponding to that prescribed in § 2 of that act. Under the Act of 1874, an indictment will lie for misdemeanor for violation of the constitutional oath extended by its provisions to municipal officers; but forfeiture of office and perpetual disqualification are not, in the case of such officers, a part of the penalty, as is prescribed in the remainder of Art. VII., Const., in relation to members of assembly and judicial, state and county officers. *Commonwealth v. McCarter*, 98 Pa. 607.

<sup>3</sup> See the preceding paragraph of the text.

<sup>4</sup> See *Auchenbach v. Seibert*, 120 Pa. 159, that the court of quarter sessions has no jurisdiction to pronounce upon the qualifications of members of councils. A person duly returned as a member of councils is entitled to qualify and be admitted to a seat until his election, if illegal, is investigated and set aside, and the clerk cannot refuse to put the name of a duly certified member elect upon the roll. *Commonwealth ex rel. Horr v. Common Council Phila.*, 23 Pa. C. C. R. 631; 24 Id. 96; 9 Dist. R. 257.

9. The select and common councils of each of said cities shall hold stated meetings at least once in each month, at such time as may be fixed by ordinance, and either branch may hold special meetings at such other time as the mayor, the president, or any five members may deem proper to call the same, upon twenty-four hours' notice to each member, which notice shall state whether such meeting is to be convened for special or general business.

23 May 1880.  
Art. VI., § 5.

Stated meetings.

Special meetings.

Notice of meetings.

10. Each branch shall keep a journal of its proceedings, which shall be at all times open to public inspection. All voting in either council, or in joint convention of both councils, shall be viva voce, and the yeas and nays of the members on any question shall, at the request of any two of them, be entered on the journal. Except where he shall be personally or privately interested, no member shall withhold his vote on any measure or question, unless he shall state his reasons therefor to the branch, which may excuse him and enter the reasons upon the journal.

Id. § 6.

Each branch to keep journal.

Voting to be viva voce.

Yeas and nays, when to be entered.

No member to withhold vote.

11. Every legislative act of the councils shall be by resolution or ordinance, and every ordinance or resolution which shall have passed both branches shall be presented, duly certified, to the mayor for approval. If he approves, he shall sign the same, but if he shall not approve he shall return it, with his objections, to the branch of councils wherein it originated,<sup>1</sup> which shall thereupon proceed to reconsider it.<sup>2</sup> If upon such reconsideration two-thirds of the members elected to each branch shall pass the said ordinance or resolution, it shall become effective as though the mayor had signed the same. In all such cases the vote of councils shall be determined by yeas and nays, and the names of the members voting be duly entered upon the journals. Every ordinance or resolution which the mayor shall not return within fifteen days from the date of its presentation to him, as aforesaid, shall become a law as fully and effectively as if he had approved the same.<sup>3</sup> The mayor may disapprove of any item or items of any bill making appropriations, and such item or items shall be void unless repassed according to the rules herein prescribed for the passage of bills over the mayor's veto.

Id. § 7.

Ordinances and resolutions to be approved by the mayor.

Veto.

Passage of ordinance or resolution over veto.

Vote to be by yeas and nays.

Ordinance or resolution to be returned by mayor within fifteen days.

Items of appropriation bills may be vetoed.

Id. § 8.

12. All ordinances may be proved by the certificate of the city clerk, under the corporate seal, and when printed or published in book or pamphlet form, and purporting to be published by authority of the city, shall be read and received as

Proof of ordinances.

When printed by authority, to be evidence.

<sup>1</sup> See *Commonwealth v. Fidler*, 136 Pa. 129. The mere depositing of the veto with the clerk of councils is not a return of it within the meaning of the act. *Brie v. Bier*, 10 Super. Ct. R. 381.

<sup>2</sup> The vote upon the reconsideration is final and cannot itself be reconsidered. *Sank v. Philadelphia*, 4 Brewst. R. 133.

<sup>3</sup> If the next stated meeting does not occur within the fifteen days, he must convene councils specially in order to lay his veto before them, otherwise the ordi-

nance or resolution will become a law, notwithstanding the veto was signed within the fifteen days. *Pa. Globe Gas Light Co. v. Scranton*, 97 Pa. 538. See also *Allentown v. Grim*, 109 Id. 113, that the mistake of a date by the mayor in the formal approval of an ordinance, where such mistake is accidental and prejudices no one's rights, does not affect the validity of the ordinance if otherwise regularly passed.

28 May 1889.  
Art. VI.

Penal ordinances to be published.

Ordinances to be certified and recorded.

Id. § 9.

Fiscal year.

Financial statement to be published annually.

What statement to contain.

Id. § 10.

Annual estimates of receipts and expenditures.

Interest, salaries and ordinary expenses to be first provided for.

Tax rate to be based upon appropriations.

Appropriations to be limited to receipts.

Id. § 11.

Joint sessions of councils.

evidence in all courts and places without further proof. All ordinances shall, unless otherwise provided therein, take effect immediately upon their approval by the mayor, and every ordinance prescribing a penalty for the violation thereof shall be forthwith published at least three times in not more than two newspapers printed and circulated within the city, in such manner as councils may direct. All ordinances shall within one month after their passage, be certified and recorded<sup>1</sup> by the city clerk in a book provided by the city for that purpose, which shall be at all times open to the inspection of the citizens.

13. The fiscal year of each of said cities of the third class shall begin on the first Monday of April in each and every year. The councils shall, at the end of the fiscal year, cause to be published, in the month of April or May, in not more than two newspapers printed and circulated in said city, a summarized statement of the receipts and expenditures of the city during the preceding year, its present funded and floating indebtedness and the date of maturity of the funded debt, a schedule of its assets, with the character and value thereof, and the amount of the taxable property therein.

14. The several departments of the city government shall, before the commencement of the fiscal year, present to councils an estimate of the probable receipts and expenditures, and of the amount required by each of said departments for the public service during the ensuing year, and councils shall then proceed to make the annual appropriations thereto. No appropriation shall be made for any purpose until the interest accruing on the funded debt of the city, and the principal of such part of said debt as may be coming due, the salaries of officers and the ordinary and necessary expenses of the city shall first be provided for. When all appropriations for the expenditures for the ensuing year shall be finally made, the councils shall fix the tax rate at such figure as, with all sources of revenue, will fully meet and cover the aggregate amount of such appropriations; and no appropriation shall be made for any purpose in excess of the estimated receipts for the current fiscal year.<sup>2</sup>

15. Councils may, by concurrent resolution, meet in joint convention for the purposes provided for in this act, and also in joint session<sup>3</sup> for the transaction of general business, except the passage of ordinances. No joint session shall be

<sup>1</sup> The ordinance book is *prima facie* evidence of the enactment of an ordinance. *Grier v. Homestead Borough*, 6 Super. Ct. R. 542; *Ridley Park v. Light and Power Co.*, 9 Id. 615. Where an ordinance or resolution has been actually passed by councils, and through inadvertence it has not been recorded upon the minutes, the fact of its passage may be proved by the testimony of those who were present at the meeting. *Fisher v. South Williamsport*, 1 Super. Ct. R. 386.

<sup>2</sup> A city cannot enter into a contract for an expenditure in excess of the moneys in the treasury, or available out of the revenues for the current fiscal year. *Deysner v. Reading*, 18 Pa. C. C. R. 611.

<sup>3</sup> See *Commonwealth v. Chittenden*, 2 Dist. R. 804, as to the distinction between the "joint session" and the "joint convention" provided for in other portions of the act.

valid unless a quorum of each branch be present, and when the yeas and nays are demanded by any member, the votes of a majority of those present of each branch in its favor shall be necessary to the adoption of any motion or resolution.<sup>1</sup>

16. A member who has a personal or private interest<sup>2</sup> in any measure or bill proposed or pending before councils, shall disclose the fact to the branch of which he is a member, and shall not vote thereon, nor take part in the discussion of the same. If such interested member shall vote without disclosing his interest in such measure or bill, and the same be carried by his vote, he shall forfeit his office, and such measure or bill shall be void.

17. No member of councils, or other city officer, shall become the surety in any bond or obligation given to the city by any other officer, or by any agent or contractor, for the faithful performance of any trust, agency or contract. Any person becoming surety in violation of the provisions hereof shall forfeit his office, and be deemed guilty of a misdemeanor, punishable upon conviction by a fine not exceeding five hundred dollars.<sup>3</sup>

18. No member of councils, or other officer of such city, shall purchase any warrant, order or claim for labor or supplies furnished to such city, nor be interested, directly or indirectly, in the purchase of the same, for any sum less than the amount specified therein; and any such person purchasing a warrant, order or claim in violation of the foregoing provision, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars.

19. The councils shall prescribe by ordinance the number, duties and compensation of the officers and employees of the city, and no payment shall be made from the city treasury, or be in any way authorized, to any person except an officer or employee elected or appointed in pursuance of law;<sup>4</sup> and no ordinance shall be passed giving any extra compensation to any officer, servant, employee, agent or contractor, nor providing for the payment of any claim against the city without previous authority of law; and any officer drawing or countersigning any warrant, or passing any voucher for the same, or paying the same, shall be guilty of a misdemeanor, and on conviction thereof be punished by a fine not exceeding five thousand dollars, and imprisonment not exceeding one year.

<sup>1</sup> The section amended as above by the Acts of May 16, 1901, § 18, P. L. 239, and March 30, 1903, § 4, P. L. 119.

<sup>2</sup> This means a pecuniary interest; the restriction does not apply to the case of a member of councils who votes to award a contract to a firm of which he is a mere salaried employee. *Dunlap v. Philadelphia*, 13 W. N. C. 98.

<sup>3</sup> This section is adapted from section 66 of the Criminal Code of 1860, P. L. 400, and prescribes the same punishment

for illegal suretyships as is therein provided. On a *quo warranto* the court will give judgment of ouster against councilmen who become sureties of city officers, without a previous conviction on an indictment. *Commonwealth v. Allen*, 70 Pa. 465.

<sup>4</sup> Councils have power to pass an ordinance directing compensation for services actually rendered by a *de facto* employee. *Bailey v. Philadelphia*, 167 Pa. 569.

23 May 1889.  
Art. VI.  
Quorum.

23 May 1889.  
Art. IV., § 10.  
P. L. 284  
Councilmen  
privately inter-  
ested in  
pending meas-  
ure not to vote  
thereon.

Penalty for  
so voting.

Id. § 12.

City officers  
not to be  
sureties for  
each other.

Penalty.

Id. § 14.

Purchase of  
city warrants,  
etc., below  
face amount  
forbidden.

Penalty.

Id. § 15.

Councils to  
prescribe num-  
ber, duties and  
compensation  
of city officers.

Extra compen-  
sation forbid-  
den.

Penalty for  
payment of un-  
authorized  
claims.

19 March 1908.  
§ 1. P. L. 51.

Councils authorized to issue subpoenas and compel attendance of witnesses and production of books, papers, etc., in investigations.

Proceedings where witness refuses to testify, etc.

Facts to be reported to court.

Hearing and order.

Commitment for contempt.

Liability of witness for perjury.

Mileage and compensation.

13 May 1889.  
§ 1. P. L. 196.

Existing councils declared legally constituted.

20. The councils, and each branch thereof, of any borough, or of any city of the second or third class, within this commonwealth, shall have power to compel the attendance of witnesses, and the production of books, papers and other evidence, at any meeting of the body or any committee thereof, and for that purpose may issue subpoenas, signed by the president of council or the chairman of the committee, in any pending case of inquiry, investigation or impeachment, and cause the same to be served and executed in any part of this commonwealth; and if any witness shall refuse to testify as to any fact within his knowledge, or to produce any books or papers within his possession or under his control, required to be used as evidence in any such case, the clerk of that branch of council, by whose authority such witness was subpoenaed, shall forthwith report the facts relating to such refusal to one of the courts of common pleas of the county within which such borough or city is situated; and all questions arising upon such refusal, and also upon any new evidence, not included in said clerk's report (which new evidence may be offered in behalf of or against such witness), shall at once be heard by said court. If the court determines that the testimony or evidence required by such witness is legal and properly competent, and ought to be given or produced by him, then said court shall make an order commanding such witness to testify or produce books or papers (or both, as the case may be), and if such witness shall thereafter refuse to testify or to produce books or papers, as aforesaid, in disobedience of such order of the court, then the said court shall have power to order the commitment of such witness to the county jail of the proper county, for contempt.

21. Any person, so called as a witness, may be examined under oath, and shall be liable to indictment, conviction and punishment for perjury, in the same manner and to the same extent as if the witness had been called and examined before any committee of the legislature of the commonwealth, or in any judicial proceeding before any of the courts thereof, in accordance with existing laws; *Provided*, That the person or persons outside of such borough or city, subpoenaed as aforesaid, shall not be required to respond to the same until they have been furnished with mileage to and from said borough or city, at the rate of ten cents per mile, and a per diem allowance of two dollars for the time their presence is desired in said city.

22. The select and common councils in the cities of this state, as the same are now and have been constituted and organized, are hereby declared to be, and to have been, legally constituted councils. All ordinances and resolutions passed and adopted by a vote of the majority of all the members elected to each branch of the councils, in the cities of this state, as said councils are now and have been heretofore con-



stituted and organized, and approved of by the mayor, or if <sup>13 May 1889.</sup> passed notwithstanding the objections of the mayor by a vote of two-thirds of all the members elected to each branch of councils aforesaid, and whether publication has or has not been made of said ordinances and resolutions, if otherwise regular, are hereby validated and declared to be in full force; <sup>Ordinances and resolutions validated.</sup> *Provided*, This act shall not apply to cities of the first and second classes.<sup>1</sup> <sup>Proviso.</sup>

23. All acts or parts of acts inconsistent herewith, or supplied by the provisions hereof, be and the same are hereby repealed; but no right or interest which has become vested thereunder shall be destroyed or impaired by the operation of this act, or by the exercise of any power granted therein. All officers of each of said cities of the third class in office at the date of the approval hereof, shall, except where otherwise herein provided, continue to hold their offices for the term for which they were respectively elected; but all ordinances of any of said cities heretofore legally passed, not inconsistent with such provisions, are hereby made valid, and shall be and remain in full force and virtue until altered or repealed.<sup>2</sup> <sup>23 May 1889. Art. XIX., § 2. P. L. 332. Repeal. Existing officers continued and ordinances validated.</sup>

24. It shall be the duty of the councils of every city of the third class forthwith to pass such ordinances, in accordance with the provisions of this act, as may be necessary to carry into effect the requirements thereof. <sup>Id. § 3. Councils to pass necessary ordinances.</sup>

25. In cities of the third class operating with but a single branch of council, the members thereof in office at the date of the approval hereof are empowered to exercise all the functions of councils in the manner theretofore authorized, until their successors are duly elected and installed in accordance with the provisions of this act. <sup>Id. § 4. Cities having but one branch of councils.</sup>

<sup>1</sup>This act is constitutional. It was passed to validate the organization and acts of councils under the Act of May 24, 1887, P. L. 204, dividing cities into seven classes and providing for the incorporation and government of cities of the fourth, fifth, sixth and seventh classes, declared unconstitutional in *Ayars' App.*, 122 Pa. 266, and as a remedy to the intolerable confusion resulting from that decision. See *Devers v. York*, 150 Pa. 208, 211; *Melick v. Williamsport*, 162 Id. 408, 411; *Chester v. Pennell*, 169 Id. 300.

<sup>2</sup>The above is the general repealing section of the Act of 1889. In the original draft the last clause beginning "but all ordinances," etc., appeared as directly fol-

lowing and a part of section 3, read in connection with which it is more intelligible. The sections, however, appear as above in the act as approved and published in the pamphlet laws. The Act of 1889 revises, with a few exceptions, the whole subject-matter of the Act of May 23, 1874, for which it was intended as a substitute. It has, therefore, superseded the latter as the code for the government of cities of the third class, though in respect to the provisions of the Act of 1874, not contained in the Act of 1889, the two statutes are to be treated as in *pari materia*. See *Commonwealth v. Hastings*, 16 Pa. C. C. R. 425; *Harris's Application*, 4 Dist. R. 320.

## License Taxes.

[See CORPORATE POWERS.]

1. Commercial travelers not to be required to pay local license or mercantile tax. To sell to dealers only.

2. Foreign dealers in merchandise may be taxed for temporary business. Tax not to exceed local rates. Not to apply to sales by sample.

3. Act may be enforced by ordinance.

4. Exemption of farmers from license tax.

5. Transient retail business dealers to obtain local license. Amount of license to be fixed by ordinance in cities and boroughs. License in townships. License to be renewed monthly. Penalty for selling without local license.

17 May 1883.  
§ 1. P. L. 31.

Commercial travelers not to be required to pay local license or mercantile tax.

To sell to dealers only.

24 May 1887.  
§ 1. P. L. 185.

Foreign dealers in merchandise may be taxed for temporary business.

Tax not to exceed local rates.

Not to apply to sales by sample.

Id. § 2.

Act may be enforced by ordinance.

22 April 1908.  
§ 1. P. L. 258.

Exemption of farmers from license tax.

2 May 1899.  
§ 1. P. L. 156.

Transient retail business dealers to obtain local license.

Amount of license to be fixed by ordinance in cities and boroughs.

1. From and after the passage of this act it shall be unlawful for any city, borough or municipality to levy any license or mercantile tax upon persons taking orders for merchandise by sample from dealers, for individuals or companies who pay a license or mercantile tax at their chief places of business. It shall also be unlawful for any city, borough or municipality to collect such license or mercantile tax hereafter levied by virtue of any ordinance of any city, borough or municipality; *Provided*, That nothing in this act shall authorize such person to sell by retail to others than dealers or merchants.

2. Hereafter the several cities and boroughs of this state shall have power to tax or license foreign dealers in merchandise, or their agents, having no permanent place of business in any such city or borough, but temporarily engaged in selling or disposing of merchandise, either by wholesale or by retail to an amount not exceeding the local taxes or licenses imposed on resident merchants engaged in a like business; *Provided*, That the provisions of this act shall not apply to sales by sample.<sup>1</sup>

3. Cities and boroughs shall have power to enforce the provisions of this act by providing proper penalties by ordinance duly enacted.

4. After the passage of this act, it shall be unlawful for any borough or city of this commonwealth to levy or collect any money or tax, as a license fee, from any farmer who sells his own products in or about the streets of any borough or city of this commonwealth.

5. Hereafter every person, whether principal or agent, entering into, beginning or desiring to begin a transient, retail business in any city, borough or township of this commonwealth for the sale of any goods, wares or merchandise whatsoever, whether the same shall be represented or held forth to be bankrupt, assigness, or about to quit business, or of goods damaged by fire, water or otherwise, shall take out a license for the same from the proper authorities of the said city, borough or township. The amount of such license in any city or borough shall be fixed by ordinance duly passed by the council of such city or borough, and shall not be less than twenty-five dollars nor exceed the sum of two hundred dollars per

<sup>1</sup> This act was held, in *Lansford Borough v. Brode*, 7 Pa. C. C. R. 221, not to apply to citizens of this state. Its provi-

sions appear to be superseded by those of the Act of May 2, 1899, *infra* 6.

month, or fractional part thereof, to be paid to the treasurer <sup>2 May 1899.</sup> of said city or borough; and the amount of such license in <sup>License in</sup> any township shall be the sum of twenty-five dollars per <sup>townships.</sup> month or fractional part thereof, to be paid to the county treasurer for the use of the school fund of said township. Said license to be renewed monthly during the continuance of <sup>License to be</sup> said sale, and upon failure of said person or persons so to se- <sup>renewed</sup> cure such license, he, she or they shall be fined in a sum not <sup>monthly.</sup> less than one hundred dollars, nor more than two hundred <sup>Penalty for</sup> dollars, to be collected as other fines are by law collectible, <sup>selling without</sup> and, in default of payment of said fines, to be imprisoned in <sup>local license.</sup> the jail of said city or county for a period not exceeding thirty days.<sup>1</sup>

<sup>1</sup> Section 2 of this act repeals the Act of May 4, 1889, P. L. 83, and the amendment of May 10, 1893, P. L. 35, the ambiguities of which it appears designed to remedy. The act does not discriminate between citizens of this state and citizens of other states. *Reading v. Jones*, 14 Dist. R. 66. An ordinance based upon the Act of 1893 is invalid if it does not apply to all persons engaging in the business sought to be regulated. *Wormser v. Allentown*, 8 Dist. R. 649. In the case of *Titusville v. Brennan*, 143 Pa. 642, it was held that a municipal ordinance imposing a license tax upon itinerants selling goods to others than manufacturers and licensed merchants, or soliciting orders therefor, if uniform in its operation to citizens of this and other states, was not in violation of the constitution of the United States as imposing a tax on inter-

state commerce. On appeal to the supreme court of the United States this decision was reversed. 153 U. S. 289. It appears, therefore, that power conferred under such laws as the above is restricted to the taxation of citizens of this state selling goods produced therein.

The subject of the licensing of hawkers and peddlers is regulated by a multiplicity of local and general acts of assembly, for a list of the former of which, applicable to the several counties, see 2 Pa. C. O. R. 238 note, and for list of those relating to auctioneers, Id. 242 note. These licenses do not exempt the holders from the requirements of existing ordinances providing for a municipal license to non-resident dealers. The licensing of hawkers and peddlers in boroughs and townships is regulated by the Act of June 14, 1901, P. L. 563.

## Liquors.

[See MAYOR.]

1. Penalty for public drunkenness.
2. Penalty for allowing drunkenness on premises where liquor is sold.
3. Prevention of disorderly conduct in taverns and eating houses. Duty of police.
4. Duties of peace officers respecting the enforcement of the law. How offenders to be dealt with.
5. Intoxicated persons to be arrested on

view. To be confined until sober. Examination.

6. Notice to innkeepers, etc., not to sell intoxicating liquors to intemperate persons. Penalty for selling after notice.

7. Selling to inebriates after notice. Recovery of damages. Married women may sue in their own names. Survival of action.

1. Any person who shall be found intoxicated in any street, <sup>31 March 1896.</sup> highway, public house or public place, shall be fined, upon the <sup>§ 29. P. L. 207.</sup> view of, or upon proof made before any mayor, alderman or justice of the peace, not exceeding [two] dollars,<sup>1</sup> to be levied, <sup>Penalty for</sup> with the proper costs, upon the goods and chattels of the de- <sup>public drunk-</sup> fendant. <sup>enness.</sup>

<sup>1</sup> The penalty is reduced from five to two dollars by the Act of April 20, 1898, Sec. 22, P. L. 370, by which it is also provided that the fines shall be paid over to the treasurer of the school district. The offence of public drunkenness, it would seem, may be made punishable by ordinance through the power given to cities of

the third class under clause 28, sec. 3 of Art. V. of the Act of 1889 (see "Corporate Powers") to enact ordinances to suppress "all kinds of public indecencies." The same offences may lawfully be made punishable under both a criminal statute and a municipal regulation. *Morgan v. Commonwealth*, 13 Pitts. Leg. Jour. 14.

31 March 1856.  
§ 30.

Penalty for al-  
lowing drunk-  
ness on  
premises where  
liquor is sold.

2. Any person who shall sell spirituous, or other intoxicating liquors as aforesaid to any person who shall drink the same on the premises where sold, and become thereby intoxicated, shall, besides his liability in damages under any existing law, be fined five dollars for every such offense, to be recovered in debt before any alderman or justice of the peace, by any wife, husband, parent, child, relative or guardian of the person so injured, and levied upon the goods and chattels of the defendant, without exemption; *Provided*, That suits shall not be instituted after twenty days from the commission of the offenses in this and the preceding section.

17 April 1867.  
§ 1. P. L. 86.

Prevention of  
disorderly con-  
duct in taverns  
and eating-  
houses.

3. Persons licensed to keep taverns or eating houses shall, as far as in them lies, prevent all disorderly conduct in and about their premises, and, in case of any disturbance of the peace, shall immediately give notice to the nearest sheriff, constable, officer or member of police, of such disturbance, and call upon said officer to interpose; whereupon it shall be the duty of such officer to remove the disorderly persons, and, if need be, to close up the place, and keep it closed until order and quiet are entirely restored.

Duty of police.

Id. § 7.

Duties of peace  
officers respect-  
ing the en-  
forcement of  
the law.

4. It shall be the duty of every sheriff, constable, police-  
man and officer of police to compel the observance, and to pre-  
vent the violation of the provisions of this act; and in the dis-  
charge of such duty, if need be, he shall have power to close  
up, and to keep closed, any place or places where such viola-  
tions become known to him, whether by his own personal ob-  
servation, or by information of any respectable citizen of the  
vicinity; also it shall be the duty of the officers aforesaid to  
arrest such persons so alleged to be acting in violation of law,  
and to bring them before any magistrate of the vicinity, to be  
dealt with according to the provisions of this act, and it shall  
be the duty of such magistrate to entertain complaints for the  
violation of this act, when made under oath by any citizen of  
the vicinity.

How offenders  
to be dealt  
with.

Id. § 8.

Intoxicated  
persons to be  
arrested on  
view.

5. It shall be the duty of every sheriff, constable, member  
and officer of police to arrest any and every person who shall  
be found intoxicated in any street or public highway, or in  
any public place or places where strong or spirituous liquors,  
wines, ale or beer are sold, publicly kept or disposed of, and  
to take him, or her before any magistrate of the vicinity; and  
if such magistrate shall, after due inquiry, deem him or her  
too much intoxicated to be fully examined, or to answer on  
oath correctly, the magistrate shall cause him or her to be  
confined until he or she becomes sober, and then to be brought  
before him and interrogated, under oath or affirmation, as to  
the cause of such intoxication, and thus ascertain from whom  
he or she obtained the liquor which caused the drunkenness,  
but such examination shall not be used in evidence against  
such intoxicated person in any prosecution, civil or criminal.

To be confined  
until sober.

Examination.

6. It shall be lawful for any member of the family or blood relation of an intemperate person, or any overseer of the poor, or any magistrate of the district in which such intemperate person resides or has legal settlement, or the committee of a habitual drunkard, to give a distinct notice, verbal or written, to any inn-keeper, merchant, grocer, distiller, brewer or other person manufacturing, selling or having intoxicating liquors, forbidding him or them from furnishing such intemperate person or habitual drunkard with intoxicating drinks or liquors, and if, within three months after such notice, any one to whom the same is given shall furnish or cause to be furnished intoxicating liquors to such intemperate person or habitual drunkard to be used as a beverage, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in the first section of this act.<sup>1</sup>

<sup>8 May 1854.  
§ 2. P. L. 668.</sup>  
Notice to inn-keepers, etc., not to sell intoxicating liquors to intemperate persons.

Penalty for selling after notice.

7. The husband, wife, parent, child or guardian of any person who has or may hereafter have the habit of drinking intoxicating liquor to excess may give notice in writing, signed by him or her, to any person, not to sell or deliver intoxicating liquor to the person having such habit; if the person so notified, at any time within twelve months after such notice, sells or delivers any such liquor to the person having such habit, the person giving the notice may in an action of tort recover of the person notified any sum not less than fifty, nor more than five hundred dollars, as may be assessed by the court or judge as damages. A married woman may bring such action in her own name, notwithstanding her coverture, and all damages recovered by her shall go to her separate use. In case of the death of either party, the action and right of action given by this section, shall survive to or against his executor or administrator without limit as to damages.<sup>2</sup>

<sup>12 April 1875.  
§ 7. P. L. 41.</sup>

Selling to inebriates after notice.

Recovery of damages.

Married women may sue in their own names.

Survival of action.

<sup>1</sup> That is, by a fine of not less than ten, nor more than fifty dollars, and imprisonment of not less than ten, nor more than sixty days.

<sup>2</sup> Licenses for the sale of vinous, spirituous, malt or brewed liquors at retail in this state are regulated by the Act of May 13, 1887, P. L. 108 (known as the Brooks' Law), and its amendments. The offences of the sale of liquor on Sunday, on election days, to minors, and to persons of known intemperate habits or visibly intoxicated, are punishable, by sec. 17 of that act, by a fine of not less than fifty, nor more than five hundred dollars, and imprisonment of not less than twenty, nor more than ninety days. So far as the penalties for these specific offences are concerned, the act repeals all prior laws. Some portions of the latter still unrepealed by the Act of 1887 are here published because of their more immediate relation to the police functions of the city government. Under existing laws the business of selling intoxicating liquors, licensed by the state, cannot be taxed by municipal license. *Altoona v. Stehle*, 21 Pa. C. C. R. 395.

By the Act of May 13, 1887 (*supra*), as amended by the Act of June 9, 1891, P. L. 248, the amount of the retail license in cities of the third class is fixed at \$500, four-fifths of which is to be paid into the city treasury, and by section 2 of the Act of July 30, 1897, P. L. 469, an additional license fee of \$50 is imposed for the use of the state. The city's proportion of the money is properly payable in the first instance to the county treasurer, whose duty it is to pay it over to the city treasurer; the county has no interest in or control over it. *Commonwealth v. Martin*, 170 Pa. 118. The Act of 1891 makes no provision for a commission upon the fund, but it has been held by the C. P. of Northampton County in *South Bethlehem v. Hemingway*, 16 Pa. C. C. R. 103, and by the C. P. of Berks County, in *City of Reading v. Kutz*, 21 Id. 28, that the treasurer is entitled to receive a commission thereon at the same rate as upon moneys collected for the use of the state. Comp. however, *Pittsburgh v. Anderson*, 194 Pa. 172.

## Local Legislation.

1. Constitutional provision.  
2. How notice of application for local or special legislation to be published.

3. Evidence of publication.  
4. How publication to be made when subject-matter affects cities or boroughs.

Const. 1874.  
Art. III., § 8.

Constitutional  
provision.

1. No local or special bill shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or the thing to be affected may be situated, which notice shall be at least thirty days prior to the introduction into the general assembly of such bill, and in the manner to be provided by law; the evidence of such notice having been published shall be exhibited in the general assembly, before such act shall be passed.<sup>1</sup>

12 Feb. 1874.  
§ 1. P. L. 48.

How notice of  
application for  
local or special  
legislation to  
be published.

2. No local or special bill, either to repeal or enact a law, shall be passed by the legislature, unless notice of the intention to apply therefor shall be published in the locality where the matter or thing to be affected may be situated, which notice shall state specifically the title and objects of the bill, and shall be published by not less than four insertions in at least two daily or weekly newspapers, one of which may be in a language other than English, once a week for four consecutive weeks, printed in the county, or in each of the several counties, where such matter or thing to be affected may be situated; the first insertion to be at least thirty days prior to and within three months immediately preceding the introduction of such bill into the general assembly, and be signed by at least one of the parties applying therefor; *Provided*, That the publication in one newspaper shall be deemed sufficient where but one is published in the county or counties aforesaid.<sup>2</sup>

Id. § 2.

Evidence of  
publication.

3. The evidence of the publication aforesaid shall be by attaching to a bill a copy or copies, as the case may be, of said notice, verified by the affidavit of the owner, publisher, editor or foreman of each of the several newspapers in which said notice is by this act required to be published, of due compliance with the preceding section.

Id. § 3.

How publica-  
tion to be  
made when  
subject-matter  
affects cities  
or boroughs.

4. When such local or special bill shall affect any matter or things situated in any city or borough, said publication shall be in two of the newspapers published in said city or borough, if so many there be; and if there be but one, a publication in that one shall be deemed sufficient: if there be no newspaper published in said city or borough, then by publication in the newspaper or newspapers of the county in which said city or borough is located, as provided in the first section of this act.

<sup>1</sup> The legislative rule on the subject requires that due proof of publication shall be certified to by the president or secretary of the committee reporting the bill. *Senate Rules*, Smull Leg. Hand. 1899, 1040.

<sup>2</sup> Assuming the general rule to be that

notice of the application will be presumed, yet where the fact is conceded that no notice was given, the presumption cannot prevail, and a local act passed without compliance with the provisions of the law is invalid. *Chalfant v. Edwards*, 173 Pa. 246.

## Lodging Houses.

1. Public lodging house defined.  
2. Mayor may license public lodging houses. When license to expire. Licensee to be of good moral character. Building to be examined as to its safety and means of escape. Sanitary condition to be certified to by health authorities.  
3. Register to be kept by lodging houses. Penalty for not keeping register.

4. House to be subject to official inspection.  
5. Health authorities to prescribe rules for sanitation of premises.  
6. License to be forfeited on non-compliance with statutory requirements. Keeper to have public hearing.  
7. Keeping public lodging house without license to be misdemeanor. Penalty.

1. Every building in any city of this commonwealth not<sup>2</sup> licensed as an hotel, inn or tavern, in which ten or more persons are lodged for a price for a single night of twenty-five cents or less for each person, shall be deemed a public lodging house within the meaning of this act.<sup>1</sup>

<sup>2</sup> July 1895.  
§ 1. P. L. 428.  
Public lodging house defined.

2. The mayor of any city in this commonwealth may license persons to keep public lodging houses in said city upon payment of a fee of two dollars, and upon compliance with and subject to the following provisions and requirements:

Id. § 2.  
Mayor may license public lodging houses.

The said license shall expire on the thirty-first day of December in the year in which it is issued. It shall specify particularly the place licensed, and it shall not protect the licensee in carrying on business in any other place.

When license to expire.

No such license shall be granted to a person by the mayor who is not of good moral character, and no license shall be issued until the building inspectors of said city and the fire marshal, or, if such officials do not exist, such other official or person as the mayor shall name to examine into the safety of the building, license for which is applied for, shall certify that the building is safe for the load it will probably have to carry, is provided with all the fire escapes required by law, and with such additional means of escape, in case of fire, as the construction of the building, its surroundings and the use to which it is to be put require to be adopted for the safety of the lodgers.

Licensee to be of good moral character.

Building to be examined as to its safety and means of escape.

No such license shall be granted until the mayor shall receive a certificate from the health authorities of said city setting forth that the plumbing in the building sought to be licensed is in accordance with the rules of the said health authorities, or, if no such rules have been adopted, that the plumbing is in good condition, and further that the building is supplied with a sufficient number of water closets and urinals for the people intended to be accommodated, and with good and sufficient means of ventilation.

Sanitary condition to be certified to by health authorities.

3. In every public lodging house a register shall be kept in which shall be entered the name and address of each and every lodger, together with the time of his arrival and departure, and such register shall at all times be open to the inspection of the police authorities of said city. Each and every failure to carry out and comply with the requirements

Id. § 3.  
Register to be kept by lodging houses.

<sup>1</sup> The act does not offend against the constitutional provisions as to title or uniformity of taxation, nor in subjecting boarding houses to unreasonable searches.

It is a legitimate exercise of the police power of the state, upon which there is no constitutional limitation. *Commonwealth v. Muir*, 1 Super. Ct. R. 578; 180 Pa. 47.

2 July 1895. of this section shall subject the lodging house keeper to a fine of five dollars, to be collected at the suit of the city in which such house is licensed, before any magistrate, alderman or justice of the peace.

Id. § 4. 4. The keeper of every public lodging house shall at all times when required by the fire marshal, the fire chief or by any officer connected with the building inspectors, or with the board of health, or bureau of health, or with the police department or bureau, or by the mayor or any one delegated by him, give such official full and free access to said lodging house or to any part thereof.

Id. § 5. 5. The health authorities of said city may, from time to time, adopt rules and regulations for the government of public lodging houses, for the cleansing and disinfection of the same, or of the furniture, bedding and other personal property in and upon the same, as may, in the judgment of said health authorities, be necessary and proper for the public safety.

Id. § 6. 6. Any keeper of a public lodging house who shall fail to comply with any provision of this act, or with any requirement of the health authorities of said city, or shall so conduct his lodging house as to render it a nuisance to the neighborhood in which it is situated, shall forfeit his license; *Provided, however,* That no license shall be forfeited by the mayor of the city in which it was issued except after public hearing by him, of which the lodging house keeper shall have at least one week's notice.

Id. § 7. 7. Whoever shall keep a public lodging house in any city in this commonwealth, or shall be concerned, or in any way interested therein, without having the license herein required, shall be guilty of a misdemeanor, and on conviction shall be sentenced to pay a fine not exceeding one hundred dollars, and to undergo an imprisonment of not more than thirty days, or either, or both, at the discretion of the court.<sup>1</sup>

<sup>1</sup> The remaining part of the section exempts from the operation of the act the

charitable organizations known as "Wayfarers' Lodges," in cities of the first class.

## Markets.

1. Provisions not to be re-sold in same market.

2. Penalty for exposing for sale unwholesome meat, fish or veal.

3. Penalty for selling unwholesome provisions, adulterated beverages, etc.

6 April 1902.  
§ 1. 3 Sm. L.  
630.

Provisions not to be re-sold in same market.

1. It shall and may be lawful for any person or persons to sell or expose to sale provisions, vegetables or fruit in the markets of any city, borough or corporate town within this commonwealth; *Provided always,* That such provisions, vegetables or fruit shall not have been previously purchased within the limits of such city, borough or corporate town.<sup>1</sup>

<sup>1</sup> An ordinance prohibiting the forestalling of the market is a valid exercise of

the police power. *Meadville v. Miller*, 29 Pa. C. C. R. 517.



2. It shall not be lawful for any butcher or other person to expose for sale any tainted or unwholesome meat or fish, or any veal less than three weeks old when killed, in any of the market houses or other places for vending meat in any of the cities or boroughs in the several counties of this commonwealth, under a penalty of ten dollars for each offense, to be recovered as other penalties are recoverable, before any alderman or justice of the peace, one-half of said penalty to go to the informer, and the other half for the benefit of the poor.

<sup>7</sup> May 1855.  
§ 1. P. L. 463.

Penalty for  
exposing for  
sale unwhole-  
some meat,  
fish or veal.

3. If any person shall sell, or expose for sale, the flesh of any diseased animal, or any other unwholesome flesh, knowing the same to be diseased or unwholesome, or sell or expose for sale unwholesome bread, drink or liquor, knowing the same to be unwholesome, or shall adulterate for the purpose of sale, or sell any flour, meal or other article of food,<sup>1</sup> any wine, beer, spirits of any kind, or other liquor intended for drinking, knowing the same to be adulterated, or shall adulterate for sale, or shall sell, knowing them to be so adulterated, any drugs or medicines, such person so offending shall be guilty of a misdemeanor, and, upon conviction, be sentenced to pay a fine not exceeding one hundred dollars, or undergo an imprisonment not exceeding six months, or both, or either, at the discretion of the court.<sup>2</sup>

<sup>31</sup> March 1860:  
§ 69. P. L. 401.

Penalty for  
selling un-  
wholesome  
provisions, adul-  
terated bever-  
ages, etc.

<sup>1</sup> See the Act of June 26, 1895, P. L. 317, prohibiting under penalty the adulteration of food (the term food including "all articles used for food or drink by man, whether simple, mixed or compound"). The fines and costs thereunder are to go to the state treasury, and the dairy and food commissioner is charged with the enforcement of the act, the provisions of which are sweeping and comprehensive. Other acts to the same purport, of recent date, are those of April 27, 1903, P. L. 324, and March 28, 1905, P. L. 64. Although under the later legislation the administration of the pure food laws in general is made the distinctive duty of a state bureau, the infractions of them in the public markets are a subject of immediate concern to the local authorities, which are vested with power to make and enforce market regulations under the existing municipal codes.

<sup>2</sup> The manufacture and sale of oleo-margarine, butterine and other similar products is regulated by the Act of May 29, 1901, P. L. 327, and the sale of renovated butter by the Act of May 4, 1899, P. L. 191, as modified by the Act of July 10, 1901, P. L. 643. As to the constitutionality of the prior Act of May 5, 1899, P. L. 211, see *McCann v. Commonwealth*, 198 Pa. 509; *Commonwealth v. Schollenberger*, 17 Super. Ct. R. 218. The ancient statutes authorizing clerks of markets to weigh butter, lard and sausage were repealed by the Act of May 17, 1883, P. L. 34. But the Act of 1797, requiring all bread to be sold by weight in this state, is still in force. *Johnson v. Kolb*, 3 W. N. C. 273. The Act of April 10, 1873, P. L. 69, prohibiting the sale of oysters in the months of June, July and August, was repealed by the Act of June 2, 1891, P. L. 169.

## Mayor.

[See FINES AND PENALTIES—LEGISLATIVE DEPARTMENT—  
LIQUORS—ORDINANCES—POLICE.]

1. Election and qualifications of mayor. Term. His powers and duties. Functions as peace officer. May appoint supernumerary policemen.

2. Mayor to supervise conduct of city officers. Powers in investigations. May require information from city officers. And call special meetings of councils. Annual message.

3. Jurisdiction of mayor. Powers as committing magistrate. May take acknowledg-

ments, etc. To keep docket. Docket entries to be evidence. Fees to be paid into city treasury. Salary.

4. Mayor to appoint and remove subordinate executive officers. To issue city election proclamation.

5. Vacancy. Temporary appointment.

6. Salary of mayor to be fixed by ordinance. Proviso.

7. Fees and costs to be paid into city treasury.

23 May 1889.  
Art. VII., § 1.  
P. L. 236.

Election and  
qualifications  
of mayor.

Term.

His powers  
and duties.

Functions as  
peace officer.

May appoint  
supernumerary  
policemen.

Id. § 2.

Mayor to su-  
pervise conduct  
of city officers.

Powers in in-  
vestigations.

May require in-  
formation from  
city officers.

And call  
special meet-  
ings of  
councils.

Annual  
message.

1. The mayor of each of said cities of the third class shall be at least twenty-five years of age, and shall have been a citizen and inhabitant of the state four years and an inhabitant of the city for one year next before his election. He shall be chosen at the municipal election to serve for the term of three years, and until his successor is duly elected and qualified, and shall not be eligible to re-election for the next succeeding term. He shall be the chief executive magistrate of the city, and it shall be his duty to be vigilant and active in causing the ordinances and the laws of the commonwealth relating to the government of the city to be executed and enforced therein; and in order to enable him [more] effectually to preserve the public peace within the city all the powers which are devolved by the laws of this state upon sheriffs to prevent and suppress mobs, riots and tumultuous assemblies are hereby conferred upon him,<sup>1</sup> and he shall have the authority upon occasions of threatened public disorder to require and enforce the closing of bars and to suspend in all places the sale of liquors during the continuance thereof. He shall also have authority upon such occasions, or whenever in his judgment it is necessary for the public safety, or to preserve order, to appoint supernumerary policemen to serve for such period as he may designate, not exceeding ten days, whose compensation shall be fixed by councils.<sup>2</sup>

2. The mayor shall supervise the conduct of all city officers, examine the grounds of all reasonable complaints against any of them, and cause all of their violations or neglects of duty to be promptly punished or reported to the proper tribunal for correction, and for the purpose aforesaid he is hereby empowered to issue subpoenas and compulsory process under his official seal for the attendance of such persons, and the production of such books and papers as he may deem necessary. He shall have authority at all times to call upon any of the officials of the city or heads of departments for such information as to the affairs under their control and management as he may require, and may call special meetings of councils to consider any matters which he may think proper to lay before them. He shall communicate to councils at their first stated meeting in January of each year, and from time to time as he may deem expedient, a statement of the condition and affairs of the city in respect to its government, finances and improvements, together with suggestions and recommendations of all such measures as he may deem conducive to the interests and welfare thereof.

<sup>1</sup> This provision would seem to refer, in particular, to the common law authority of the sheriff to summon the *posse comitatus* where the maintenance of the public peace requires it. It appears undeniable that the mayor has no power to delegate general police authority without express statutory warrant. By the election law of 1839, § 111, P. L. 543, it is

made the duty of mayors of cities, and other peace officers, when called upon by the election officers, to clear the polls in case of obstruction.

<sup>2</sup> By the Act of May 29, 1893, P. L. 174, policemen appointed in such capacity must be citizens of the state. The section amended as above by Act of May 16, 1901, § 19, P. L. 236.

3. The mayor shall have the criminal jurisdiction of an alderman within the city, and shall have no civil jurisdiction except in relation to actions for fines, penalties or forfeitures imposed by virtue of the ordinances of the city, or the laws of this commonwealth relating thereto.<sup>1</sup> He shall have the power of a committing magistrate under the acts of assembly relating to tramps and vagrants, and shall, in addition, have authority to commit to the city or county prison for a term not exceeding thirty days any dissolute or disorderly persons, in default of payment of such fines or penalties as may be fixed by ordinance, with costs of arrest.<sup>2</sup> He shall be empowered to take acknowledgments of any instruments in writing, solemnize marriages and administer oaths and affirmations, and shall attest all his acts with his official seal. He shall keep a docket and shall enter therein all actions and proceedings had before him, and the said docket, with the entries therein, and duly certified transcripts thereof, shall be received in evidence in the same manner, and with like effect, as the dockets, entries and transcripts of aldermen are by law admissible for similar purposes. He shall charge and receive for all official services the same fees and costs as pertain by law to the aldermen of the city for similar services,<sup>3</sup> but shall pay over the same into the city treasury monthly, according to a statement thereof verified by oath or affirmation before the controller and filed with him. The mayor shall receive a fixed annual salary, to be provided by ordinance.

<sup>23 May 1889.</sup>  
Art. VII., § 2.

Jurisdiction  
of mayor.

Powers as  
committing  
magistrate.

May take ac-  
knowledg-  
ments, etc.

To keep  
docket.

Docket entries  
to be evidence.

Fees to be  
paid into city  
treasury.

Salary.

4. The mayor shall nominate, and by and with the advice and consent of the select council<sup>4</sup> appoint all subordinate officers of the city whose offices are created by ordinance, excepting the city clerk and the clerks of the different branches of councils, or other departments of the city government, which clerks shall be appointed by such branches or departments respectively, and such other officers authorized to be otherwise appointed or elected under the provisions of this act, and he may remove<sup>5</sup> from office any such officers appointed by the mayor for inability, official misconduct or neglect of duty, and in like manner all vacancies which may occur during the terms of such officers shall be filled. The mayor shall issue his proclamation to the qualified electors of the city at least

Id. § 6.

Mayor to ap-  
point and re-  
move subordi-  
nate executive  
officers.

To issue city  
election pro-  
clamation.

<sup>1</sup> The object of this provision seems to be to limit the functions of the mayor, as far as possible, to those of a purely municipal character. What effect it has upon his authority to exercise certain powers of a magisterial nature heretofore conferred upon him by various statutes, remains to be judicially determined.

<sup>2</sup> The power to commit is exercisable only in default of payment. *Commonwealth v. Scott*, 8 Dist. R. 367. By the amending Act of May 16, 1901, § 22, P. L. 239, the mayor may delegate any alderman of the city to hold the police court. See title "Fines and Penalties," *ante*.

<sup>3</sup> For the fees receivable by aldermen, see title "Aldermen," III., *ante*, p. 8.

<sup>4</sup> An appointment without such advice and consent gives no right to the office nor consequent claim for compensation by the appointee while acting as an officer *de facto*. *Jones v. Easton*, 4 Dist. R. 509.

<sup>5</sup> A commissioner of highways appointed by the mayor is subject to removal by him. *Commonwealth v. Lynch*, 8 Dist. R. 347. Policemen are public officers within the meaning of Art. VI., § 4, of the constitution, and are removable at the pleasure of the appointing power. *Commonwealth v. Rutherford*, 8 Dist. R. 349; 22 Pa. C. C. R. 425. Comp. *Saul v. Soranton*, 9 Dist. R. 156.

23 May 1889.

ten days before the annual municipal election, stating therein the officers to be voted for at such election.

Id. § 7.

Vacancy.

5. In case of a vacancy occurring in the office of mayor by death, resignation, removal or otherwise, a successor shall be elected for the unexpired term at the municipal election occurring at least one month after the happening of such vacancy, and [pending] the election, the city councils shall, in joint convention, by the vote of a majority of all the members elected, appoint some qualified [person to serve as mayor until a successor shall be elected and qualified] according to law.<sup>1</sup> In case of the temporary inability of the mayor to act, the councils may, in the manner aforesaid, appoint a person to act in his place until the mayor shall be able to resume the duties of his office.

Temporary appointment.

8 June 1874.  
§ 1. P. L. 277.

Salary of mayor to be fixed by ordinance.

Proviso.

6. The councils of each city in this commonwealth are empowered, from and after the passage of this act, from time to time, to fix by ordinance the salary to be paid out of the city treasury to the mayor of such city; *Provided*, That nothing herein contained shall authorize a change in the salary, fees or emoluments of the mayors now in office, and those elected prior to the passage of this act.

Id. § 2.

Fees and costs to be paid into city treasury.

7. All fees and costs pertaining to the office of mayor in the several cities of this state shall, after this act goes into effect, be paid into the city treasury.

<sup>1</sup>The words in this section above enclosed in brackets are necessary to be supplied in order to make its provisions intelligible. They appeared in the original

bill as it was passed by the legislature, but were carelessly omitted in the transcribed copy signed by the governor and published in the pamphlet laws.

## Memorial Day.

1. Cities, etc., may make appropriations for Memorial Day services.

25 June 1896.  
§ 1. P. L. 238.

Cities, etc., may make appropriations for Memorial Day services.

1. After the passage of this act the cities, boroughs and townships of this commonwealth are hereby authorized to appropriate moneys for the expenses of Memorial Day services, and to pay the same out of such moneys in their respective treasuries as are not otherwise appropriated, in the manner appropriations are now made and paid.<sup>1</sup>

<sup>1</sup> Memorial or Decoration Day is fixed by law to occur upon the thirtieth day of May, and is a legal holiday. When that

date falls upon a Sunday, the day preceding it, Saturday, is to be observed as the holiday. Act June 23, 1897, § 2, P. L. 191.

## Milk.

[See MARKETS.]

1. Inspection of milk.
2. How milkmen's wagons to be marked.
3. Penalty for neglect.
4. Penalty for sale of adulterated or unwholesome milk.
5. Sale of skimmed milk as pure milk, prohibited.
6. Skimmed milk for sale, how to be labeled.
7. What kind of milk shall be deemed to be adulterated.

8. When skimmed milk shall be deemed to be adulterated.

9. Inspector to take specimens of milk for examination. Result, when to be prima facie evidence of adulteration. Specimens may be analyzed. Fee for analysis.

10. How proceedings for violations of act to be instituted.

11. Fines to go to board of health. Imprisonment for non-payment.

12. Violation of act to be also a misdemeanor. How punishable.

1. That the councils of cities and boroughs in this com-<sup>20 April 1890.</sup>  
monwealth be, and they are hereby authorized and empow-  
ered, to provide for the inspection of milk, under such rules<sup>§ 1. P. L. 81.</sup>  
and regulations as will protect the people from adulteration  
and dilution of the same. Inspection of  
milk.

2. Any person or persons who shall, in any cities, boroughs<sup>25 May 1878.</sup>  
and villages having a population of one thousand inhabitants<sup>§ 3. P. L. 144.</sup>  
and upwards, engage in, or carry on the sale, exchange or  
traffic in milk, shall have the carriage or vehicle from which  
the same is vended conspicuously marked with his, her or  
their names, also indicating the locality from whence said  
milk is obtained, or where produced; and for every neglect of  
such marking the person or persons so neglecting shall be sub-<sup>How milk-  
men's wagons  
to be marked.</sup>  
ject to the penalties provided for in section second of this act.<sup>Penalty for  
neglect.</sup>

3. For marking wagons or vehicles so as to convey the idea  
that said milk is procured from, or produced in a different  
locality than it really is, the person or persons so offending  
shall be subject to a fine of fifty dollars, or imprisonment not  
less than thirty days, or both, at the discretion of the court.<sup>Id. § 4.  
Penalty for  
deceptive  
marking.</sup>

4. In cities of the second and third classes,<sup>2</sup> whoever by<sup>7 July 1895.</sup>  
himself, or by his servant or agent, or as the servant or agent<sup>§ 1. P. L. 204.</sup>  
of any other person, sells, exchanges or delivers, or has in his  
custody or possession with intent to sell or exchange, or ex-  
poses or offers for sale or exchange adulterated milk, or milk  
to which water or any foreign substance has been added, or  
milk produced from cows fed upon any substance in a state  
of putrefaction, or from sick or diseased cows, shall, for such  
offense, be punished by fine of not less than twenty, nor more  
than one hundred dollars.<sup>3</sup> Penalty for  
sale of adul-  
terated or un-  
wholesome  
milk.

5. Whoever by himself, or by his servant or agent, or as  
the servant or agent of any other person, sells, exchanges or  
delivers, or has in his custody or possession, with intent to sell  
or exchange, or exposes or offers for sale as pure milk, any  
milk from which the cream or any part thereof has been re-  
moved, shall, for such offense, be punished by the penalty pro-  
vided in the preceding section.<sup>Id. § 2.  
Sale of  
skimmed  
milk as  
pure milk,  
prohibited.</sup>

6. No dealer in milk, and no servant or agent of such a  
dealer shall sell, exchange or deliver, or have in his custody or  
possession with intent to sell, exchange or deliver milk from  
which the cream, or any part thereof, has been removed, un-<sup>Id. § 3.  
Skimmed milk  
for sale, how  
to be labeled.</sup>

<sup>1</sup> That is, upon conviction for such mis-  
demeanor, to a fine of not less than ten  
dollars, and imprisonment for not less  
than eight days, in default of payment.  
With the exception of this penalty, the  
remaining sections of the act, which de-  
fine and punish the offences of adulterat-  
ing milk, or selling adulterated milk, are  
supplied or repealed as to cities of the  
second and third classes by the Act of  
1885, *infra*.

<sup>2</sup> See *Commonwealth v. Hough*, 1 Dist.  
R. 51, for some commentaries on the con-  
stitutionality of this act by the court of  
quarter sessions of Philadelphia.

<sup>3</sup> See the Act of June 10, 1897, P. L.  
142, punishing the adulteration or color-  
ing of milk or cream by the addition of  
certain acids by way of preservatives  
(amended by Act of April 19, 1901, P. L.  
85); also the Act of June 26, 1895, P.  
L. 317, prohibiting the adulteration of  
food in general. The provisions of the  
latter include milk. *Commonwealth v. Hart-  
man*, 19 Pa. C. C. R. 97; 6 Dist. R. 136.  
See also *Commonwealth v. Wickert*, 19  
Pa. C. C. R. 251; *Commonwealth v. Dar-  
lington*, 9 Dist. R. 700.

7 July 1886.

less in a conspicuous place above the centre, upon the outside of every vessel, can or package from or in which such milk is sold, the words "skimmed milk" are distinctly painted in letters not less than one inch in length. Whoever violates the provisions of this section shall, for such offense, be punished by the penalty provided in section one of this act.

Id. § 4.

What kind of milk shall be deemed to be adulterated.

7. If the milk mentioned in sections one and two of this act is shown, upon analysis, to contain more than eighty-seven and fifty one-hundredths per centum of watery fluid, and to contain less than twelve and fifty one-hundredths per centum of milk solids, and less fat than three per centum, and if the specific gravity at sixty degrees Fahrenheit is not between one and twenty-nine one-thousandths to one and thirty-three one-thousandths, it shall be deemed to be adulterated.

Id. § 5.

When skimmed milk shall be deemed to be adulterated.

8. If the skimmed milk mentioned in section three of this act is shown, upon analysis, to contain less than six per centum of cream by volume, and less than two and five-tenths per centum of fat by weight, and if the specific gravity at sixty degrees Fahrenheit is not between one and thirty-two thousandths to one and thirty-seven thousandths, it shall be deemed to be adulterated.

Id. § 6.

Inspector to take specimens of milk for examination.

Result, when to be prima facie evidence of adulteration.

Specimens may be analyzed.

9. Whenever the inspector of milk has reason to believe that any milk found by him is adulterated, he shall take specimens thereof and test the same with such instrument or instruments as are used for such purpose, and if the result of such test indicates that the milk has been adulterated or deprived of its cream, or any part thereof, the same shall be prima facie evidence of such adulteration in prosecutions under this act. If the said inspector shall deem it necessary, he shall cause such milk to be analyzed, the result of which analysis he shall record and keep as evidence, and a certificate of such result, sworn to by the analyzer, shall be admissible in evidence in prosecutions under this act. The expense of such analysis, not exceeding fifteen dollars in any one case, may be included in the costs of such prosecutions.

Fee for analysis.

Id. § 7.

How proceedings for violations of act to be instituted.

10. It shall be the duty of the inspector of milk to commence proceedings in the name of the board of health for any violations of the provisions of this act, from his own knowledge, or on information of any person giving satisfactory evidence to him of such violations, before any mayor, deputy mayor or alderman of said cities.

Fines to go to board of health.

Imprisonment for non-payment.

11. The recovery of fines or penalties imposed and inflicted on any person by the provisions of this act, shall be for the use of said board of health, and, upon non-payment of the fines or penalties imposed and inflicted as aforesaid, such person shall be committed to the county jail for a period not exceeding thirty days.

Id. § 8.

Violation of act to be also a misdemeanor.

12. In addition to the fines mentioned in the foregoing sections of this act, any person or persons violating the same shall be deemed guilty of a misdemeanor, and, upon conviction,

tion thereof, shall be liable to a fine of not less than fifty, nor <sup>7 July 1886.</sup> more than one hundred dollars, or by [to] imprisonment in <sup>How punish-</sup> the county jail for not less than ten, nor more than thirty <sup>able.</sup> days, or both, or either, at the discretion of the court.

## Municipal Claims.

[See DAMAGES—REGISTRY OF REAL ESTATE—SEWERS—STREETS—TAXES.]

### I. PROVISIONS OF CODE OF 1889.

1. Proceedings for recovery of municipal claims in cities of third class. Action at law or scire facias may be brought. Judgment for want of affidavit of defence. When copy of claim need not be filed. Subsequent purchaser or omitted owner to be made party.
  2. Sale of liened property to vest a good title. Right of redemption by owner. Petition for redemption and reconveyance.
  3. Scire facias against unknown owner. Publication. Judgment.
  4. City may purchase lands sold. Limitation of bid.
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- ### II. GENERAL PROVISIONS, ACT 1901.
7. Taxes defined. Highway. Tax claim. Municipal claim. Claimant. Contractor. Owner. Property.
  8. Taxes to be first liens. To have priority of payment out of proceeds of judicial sales.
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  20. Notice by defendant to issue scire facias. Compulsory non-suit.
  21. Form of writ of scire facias on claim. Amicable scire facias.
  22. Sheriff may add other parties to writ. Posting of copy of writ. Service of writ. Service in another county. Service by mail. Advertisement. When advertisement may be dispensed with. Acceptance of service. Contents of notice. Time of service of writ.
  23. Assessment of damages. Attorney fee for collection. Rule for judgment. Replication.
  24. Tax claims to be evidence of facts averred therein. Except where denied by affidavit. Compulsory non-suit. Attorney's fee upon verdict.
  25. Scire facias to revive. Form of writ. Amicable revival.
  26. Service of writ.
  27. Practice.
  28. Judgment for plaintiff to be de terra only. Costs, how recovered.
  29. When sequestrator may be appointed. Appeal to be supersedeas. Writ of possession.
  30. Claims, verdicts, etc., to be docketed and entered on judgment index. Exceptions in certain counties.
  31. Locality index to be kept. Certificates of search. Fee.
  32. Security for stay of proceedings. Effect thereof.
  33. Writ of levavi facias. Form of writ. Advertisement of sale.
  34. Plaintiff may fix minimum price. Plaintiff may become purchaser.
  35. Execution against quasi corporations. Distribution.
  36. Effect of judicial sales. Lien to be discharged to extent of proceeds realized. Order of priority of payment of claims. Lien of mortgages, ground rents, etc. Petition of plaintiff for sale of liened premises unsold by sheriff. Requisites of petition. Rule. Decree. Return and subsequent proceedings. Title to be made to county treasurer. Re-sale. Discharge of tax claims. Proviso. Petitioner may take testimony of defendant.
  37. Redemption by owner of property sold. Conditions. Redemption by creditors. Priority of right to redeem. Petition of redeeming creditor. Decree.
  38. Assignment of tax claim. Right of one of several defendants, etc., paying claim.
  39. Amendment of claims or proceedings. Limitation. Extension of time for amendment. Limitation.
  40. Return of rules. Filing of answers. Replications. Averment of facts.
  41. Service of notices, petitions, etc.
  42. Security, how to be approved. New security. Exoneretur.
  43. Use plaintiff to enter satisfaction on payment of claim. Penalty for neglect.
  44. Right of appeal to higher court.
  45. Application of act.

## I. Provisions of Code of 1889.

23 May 1889.  
Art. XV., § 22.  
P. L. 323.

Proceedings for  
recovery of  
municipal  
claims in cities  
of third class.

Action at law  
or scire facias  
may be  
brought.

Judgment for  
want of affida-  
vit of defence.

When copy of  
claim need  
not be filed.

1. Recovery may be had on claims for city taxes, water-frontage tax, lighting-frontage tax, water taxes, lighting rates, sewerage rates, piping, paving,<sup>1</sup> re-paving, curbing or re-curb-ing of sidewalks,<sup>2</sup> cost and expense of the removal of nuisances, for assessments for sewerage, sewer connections, grading, macadamizing or paving any public street, lane, alley, or part thereof, or for assessments for damages or benefits, and contributions lawfully imposed for the opening or vacation thereof, or the changing of water-courses, and all other matters that may be subject of claim in pursuance of this act or any other act, and the laws and ordinances of any of said cities, in the court of common pleas of the proper county, or before any magistrate having jurisdiction of the amount, by action at law<sup>3</sup> to recover a general judgment against the owner or owners of property upon which the assessments were made, or such claim may be registered as provided by this act, and proceedings thereon may be had by scire facias, according to the practice and proceedings prescribed by law for the collection of municipal claims and liens;<sup>4</sup> and claims so registered shall be prima facie evidence of the amount thereof, and of the same being due and owing, and of all matters therein set forth.<sup>5</sup> Judgment shall be entered by default thereon unless the defendant or defendants shall file his, her or their affidavit of defense, as required in cases where the plaintiff has filed his copy of the cause of ac-

<sup>1</sup> A municipal lien for paving cannot be filed against the roadbed of a railway which is part of its necessary right of way. *Erie v. Piece of Land*, 175 Pa. 523; and it is immaterial whether the railroad company has a right of way, merely, or owns the land in fee. *Junction R. R. Co. v. Philadelphia*, 18 Id. 424. Nor can such lien be filed for the construction of a sidewalk along such roadbed. *Mount Pleasant Borough v. R. R. Co.*, 138 Id. 365. The right to file a municipal lien belongs exclusively to the municipality and cannot be delegated to a contractor. *Chester City v. Eyre*, 167 Pa. 308. A lien filed against several contiguous lots as one tract will be sustained where the lots are all owned by one person, with no division lines between them. *Same Case*, 181 Id. 642.

<sup>2</sup> A mechanic's lien cannot be filed for the cost of constructing a sidewalk under the Act of 1836. *Clymer Paving Co. v. Donegan*, 16 Pa. C. C. R. 262.

<sup>3</sup> As to right of city to remit penalty on municipal claims, or to compromise such claims in order to save delay and expense, see *Chester City v. McGeoghegan*, 6 Super. Ct. R. 358; 41 W. N. C. 423. A municipal claim may be collected by action of assumpsit, as well as enforced by a lien against the property affected. *Pittsburgh v. Fay*, 8 Super. Ct. R. 269.

<sup>4</sup> The Act of April 23, 1889, P. L. 48, authorizing writs of *scire facias* and *levari facias* to be issued as in the case of mechanics' claims upon liens filed for

work done or materials furnished by the board of health, or any municipal corporation, where no process is provided for the collection of the debt, charge or assessment, was repealed by the Act of June 4, 1901, *infra*. The Act of May 23, 1889, P. L. 272, "authorizing assessments and reassessments for the cost of local improvements already made, or in process of completion, and providing for and regulating the collection of the same," was remedial in its character, having been passed to validate municipal assessments made under the Act of May 24, 1887, P. L. 204, declared unconstitutional in *Ayars' App.*, 122 Pa. 266. The constitutionality of the validating act was affirmed in *Chester City v. Black*, 132 Id. 568.

<sup>5</sup> See *Scranton v. Jermyn*, 156 Pa. 107. The claim must aver upon its face all the facts necessary to sustain its validity, but it need not set out the provisions of the ordinance under which the work was done, directing the manner of its execution, with an averment of compliance therewith. *Philadelphia v. Richards*, 124 Id. 303; though it is essential that in point of fact the improvement be made in strict compliance with the mode prescribed by law and ordinance. *Morewood Ave., Ferguson's App.*, 159 Pa. 39, and see *Hershberger v. Pittsburgh*, 115 Id. 78; *Pittsburgh v. Fay*, 8 Super. Ct. R. 269; *Fulton Street*, Id. 104. As to requisites of statement and description, see *Scranton v. Jones*, 133 Pa. 219; *Scranton v. Arnt*, 148 Id. 210.



tion in such court, and the judgment and process thereon shall be with like effect as in other cases; *Provided*, That reference being made to the number and term of which and the docket and page in which such claim or claims are registered, in the precept instituting the suit, it shall not be necessary to file a copy of the same; *And further provided*, That where any real estate subject to such lien shall have been conveyed and deed recorded after the registry of such tax, the then owner shall be included in the process, and if any owner shall have been or shall be omitted, such party may be brought in by a rule of the court, or scire facias on him, her or them, to show cause why he, she or they should not be made a party to such suit; on proof of service thereof judgment may be entered against such party in default of appearance or affidavit of defense, as if originally a party to the suit.<sup>1</sup>

<sup>28</sup> May 1889.  
Art. XV.

Subsequent  
purchaser or  
omitted owner  
to be made  
party.

2. A sale of any property under a writ of levavi facias issued upon a judgment obtained upon any lien filed in pursuance of this act, whether the real owner be named or not shall be deemed a proceeding in rem, and shall vest a good title in the purchaser to the property thus purchased; *Provided, however*, That the owners of property thus sold, if not personally served with the writ of scire facias, may redeem the same within one year from the date of sale, by payment of the purchase money, taxes and all moneys expended for improvements made on or about the property, of whatever kind or nature, with ten per centum added thereto; and any person entitled to so redeem may present a petition to the court from which the process to make sale issued, setting forth the facts and his readiness to pay the redemption money, whereupon the court shall grant a rule to show cause why the purchaser shall not reconvey to the petitioner the premises sold, to be served as directed by the court, and if the petitioner shall prove the facts necessary to entitle him to redeem, the court shall make such rule absolute and enforce it by attachment.

Id. § 28.

Sale of liened  
property to  
vest a good  
title.

Right of re-  
demption by  
owner.

Petition for re-  
demption and  
reconveyance.

3. When the owner of a lot is unknown, the claim shall be filed against the land assessed and "unknown owner," and indexed accordingly. A scire facias may issue thereon, as provided in this act as to other claims, which shall be published by the sheriff once a week for three successive weeks before the return day, in at least one newspaper published in the city, with a full description of the lot, the amount assessed thereon, and for what purpose. If the owner appear, he may defend, as if named in the writ, but if there be no appearance, judgment may then be entered and the land sold with the like effect as if the real owner had been named as a party defendant and personally served with said writ.

Id. § 24.

Scire facias  
against un-  
known owner.

Publication.

Judgment.

<sup>1</sup>The section amended as above by Act of May 10, 1901, § 33, P. L. 249. See note 1, p. 146.

23 May 1889.  
Art. XV., § 25.

City may purchase lands sold.

Limitation of bid.

23 May 1889.  
Art. XV., § 30.  
P. L. 326.

Assessments for municipal improvements already made or in progress.

Viewers to assess cost on properties benefited, according to benefits or frontage.

Notice of view.

Lien and payment of assessments.

Interest.

Penalties.

To be registered within six months.

How collectible.

Assessments may be made payable in installments.

Period of payment.

Interest.

On default, whole amount to be due.

4. In all cases where lands are sold for the payment of any tax or claim of said city it shall be lawful for the said city to become the purchaser of the lands so offered for sale; *Provided, however,* That the amount bid for the respective property shall not exceed the amount necessary to secure the claims or amounts due the said city, together with the costs of sale.

5. Cities of the third class shall have power to provide by ordinance for the assessment or re-assessment of the cost of local improvements already made, or in process of construction, upon the property benefited thereby, or upon the property abutting or fronting on the street, lane, alley or part thereof, where the said improvements have been or are being made. The said assessment or re-assessment shall be made by viewers upon the property benefited, where the improvement has been directed by councils to be made according to benefits, and shall be by an equal assessment to be made by the city engineer on the property in proportion to the number of feet the same fronts upon the street, lane, alley or part thereof, improved or being improved, where the improvement has been directed by councils to be made by the frontage rule. Notice of the time and place of making said assessment or re-assessment shall be given by the viewers, or by the city engineer, as the case may be, to all the owners of property that may be affected by said assessment or re-assessment. Said assessments or re-assessments, when so made, shall be liens from the date thereof, and shall be due and payable in sixty days thereafter, and if not paid when due, shall bear interest. Said assessments or re-assessments, if not paid when due, shall be subject to the penalties fixed by this act for the non-payment of municipal assessments, and shall be filed and registered in the prothonotary's office within six months from the date of making the same, in the manner and with like effect as prescribed in this act for the filing and registry of municipal assessments, and shall be collected with additions, interest and penalties in the manner prescribed by this act for the collection of municipal assessments; *Provided,* That councils may provide for the payment of assessments authorized by this section in five equal installments, the first installment to be due and payable sixty days after the date of the assessment, the second installment to be due and payable in one year from the date of the assessment, the third installment to be due and payable in two years from the date of the assessment, the fourth installment to be due and payable in three years from the date of the assessment, and the fifth installment to be due and payable in four years from the date of the assessment; the second, third, fourth and fifth installments to bear interest from the date the first installment is due and payable; and in case any installment is not paid when due, the whole assessment remaining unpaid shall be

come due and payable, and shall be collected as directed by this act; *Provided further*, That whenever a property has paid the whole or any part of its share of the total cost of said improvement, said property shall be given credit for the amount thus paid on the assessments or re-assessments authorized by this section; *And provided further*, That this act shall not preclude any defence against the collection of such assessments arising from the manner of constructing such improvements, or the quality of the materials used therein, or from non-compliance with the provisions of any act or acts under which such improvements are claimed to have been made.

<sup>28 May 1889.</sup>  
Art. XV.

Credits for  
payments.

Certain de-  
fences not to  
be precluded.

6. Whenever the cost of local improvements of any kind in said cities of the third class is to be assessed by the city upon the abutting properties, at least five days' notice of the time and place of making the assessment<sup>1</sup> to pay the cost and expense of said local improvements shall be made by the person or persons authorized by councils to make said assessment, by publication in one or more newspapers for three successive days, and by serving notice either personally upon the owner if he can be found in the city, or on an adult person residing on each of the properties to be affected by said assessment, at which time and place all parties interested shall be heard by the persons or person authorized to make such assessment. In case there is no personal service upon the owner, or an adult person cannot be found residing upon any property that may be affected by said assessment, said notice shall be deemed to have been properly served if tacked or posted conspicuously on the premises.<sup>2</sup>

Id. § 31.

Notice to own-  
ers of time and  
place of as-  
sessment of  
benefits.

How notice  
to be given.

## II. General Provisions, Act 1901.

7. The word "taxes," as used in this act, means any county, city, borough, township, school, bridge, road, or poor taxes.

<sup>4 June 1901.</sup>  
§ 1. P. L. 364.

The word "highway," as used in this act, means the whole or any part of any public street, public road, public lane, public alley, or other public highway.

"Taxes" de-  
fined.

"Highway."

The words "tax claim," as used in this act, mean the claim filed to recover taxes.

"Tax claim."

The words "municipal claim," as used in this act, mean the claim filed to recover for the grading, guttering, macadamizing or otherwise improving the cartways of any public highway; for grading, curbing, recurbing, paving, repaving, constructing or repairing the footways thereof; for laying water pipes, gas pipes, culverts, sewers, branch sewers, or sewer connections therein; for assessments for benefits in the opening, widening or vacation thereof; or in the changing of water-courses or the construction of sewers through private lands; or in highways of townships of the first class; or in

"Municipal  
claim."

<sup>1</sup>This provision is directory and not mandatory. *Erie v. Willis*, 26 Super. Ct. R. 459.

<sup>2</sup>The section amended as above by Act of May 16, 1901, § 35, P. L. 252.

4 June 1901.

the acquisition of sewers and drains constructed and owned by individuals or corporations, and of rights in and to use the same; for the removal of nuisances; or for water rates, lighting rates or sewer rates.<sup>1</sup>

"Claimant."

The word "claimant," as used in this act, means the plaintiff or use-plaintiff, in whose favor the claim is filed as a lien.

"Contractor."

The word "contractor," as used in this act, means the person or persons who, under contract with the legal plaintiff, performed the work for which the lien is given.

"Owner."

The word "owner," as used in this act, means the person or persons in whose name the property is registered, if registered according to law; and in all other cases means any person or persons in open, peaceable and notorious possession of the property, as apparent owner or owners thereof, if any, and if not, then the reputed owner or owners thereof, in the neighborhood of such property.

"Property."

The word "property," as used in this act, means the real estate subject to the lien, and against which the claim is filed as a lien.

Id. § 2.

Taxes to be first liens.

8. All taxes which may hereafter be lawfully imposed or assessed on any property in this commonwealth, in the manner and to the extent hereinafter set forth, shall be and they are hereby declared to be a first lien on said property, together with all charges, expenses and fees added thereto for failure to pay promptly; and such liens shall have priority to, and be fully paid and satisfied out of the proceeds of any judicial sale of said property, before any other obligation, judgment, claim, lien or estate with which the said property may become charged, or for which it may become liable, save and except only the costs of the sale and of the writ upon which it is made.<sup>2</sup>

To have priority of payment out of proceeds of judicial sales.

Id. § 3.

Municipal claims to be first liens.

9. All municipal claims which may hereafter be lawfully imposed or assessed on any property in this commonwealth, in the manner and to the extent hereinafter set forth, shall be and they are hereby declared to be a lien on said property, together with all charges, expenses and fees added thereto for failure to pay promptly, and said liens shall have priority to and be fully paid and satisfied out of the proceeds of any judicial sale of said property, before any other obligation, judgment, claim, lien or estate with which the said property may become charged, or for which it may become liable, save and except only the costs of the sale and of the writ upon which it is made, and the taxes imposed or assessed upon said property.

To be paid out of proceeds of judicial sales.

Id. § 4.

Lien for municipal taxes.

10. The lien for taxes shall exist in favor of, and the claim therefor may be filed against the property taxed by, any county, city, borough, township, school district, road district,

<sup>1</sup> The paragraph amended as above by Act of March 19, 1903, § 1, P. L. 41.

<sup>2</sup> A mortgage recorded before the passage of the act is not affected by it, and

takes priority over the lien of taxes. *Lukens v. Katz*, 27 Pa. C. C. R. 596; *Martin v. Greenwood*, 27 Super. Ct. R. 552.

or poor district to which the tax is payable. The lien for the removal of nuisances shall exist in favor of, and the claim therefor may be filed against the property from which it is removed, or by which it is caused, by any city, borough or township by or for which the nuisance is removed. The lien for grading, guttering, paving, macadamizing or otherwise improving the cartways of; for grading, curbing, recurbing, paving, repaving, constructing or repairing the footways thereof; or for laying water pipes, gas pipes, culverts, sewers, branch sewers, or sewer connections in any highway; for assessments for benefits in the opening, widening or vacation thereof; or in the changing of water-courses or construction of sewers through private lands; or in highways of townships of the first class; or in the acquisition of sewers and drains constructed and owned by individuals or corporations, and of rights in and to use the same; or for water rates, lighting rates, or sewer rates, shall exist in favor of, and the claim therefor may be filed against the property thereby benefited by the city, borough or township extending the benefit. Where the contractor performing the work is to be paid by assessment bills, the lien shall exist for, and the claim shall be filed to, his use, and he shall under no circumstances have recourse to the city, borough or township authorizing the work.<sup>1</sup>

<sup>4 June 1901.</sup>  
For removal  
of nuisances.

For grading,  
paving, etc.

Laying water  
pipes, etc.

Sewers and  
drains.

Water rates,  
lighting rates,  
etc.

Where contrac-  
tor is paid by  
assessment  
bills.

11. Public property used for public purposes shall not be subject to tax claims or municipal claims; and actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity, shall not be subject to tax or municipal claims, except for removal of nuisances, for sewer claims and sewer connections, or for the recurbing, paving, repaving or repairing the footways in front thereof. All other real estate, by whomsoever owned and for whatsoever purpose used, shall be subject to all tax claims and municipal claims herein provided for; *Provided, however*, that nothing in this act contained shall hinder or prevent any city, borough, or township of the first class from providing that any municipal work may be done at the expense of the public generally, and be paid for out of the general city, borough or township funds.<sup>2</sup>

Id. § 5.

Public prop-  
erty, places of  
religious wor-  
ship, etc., to  
be exempt  
from tax or  
municipal  
claims.

Exceptions.

Proviso.

12. No claim shall be filed for curbing, recurbing, paving, repaving or repairing the footway of any highway, unless the owner shall have neglected to do said work for such length of time as may be prescribed by ordinance, after notice so to do, served upon him or his agent or the person in possession of the property, except when, in the case of curbing, or recurbing or repaving the footway, it shall form part of an im-

Id. § 8.

Claims for  
curbing, etc.,  
to be proceed-  
ed in after  
notice.

Exceptions.

<sup>1</sup>The section amended as above by Act of March 19, 1906, § 2, P. L. 42.

<sup>2</sup>The section amended as above by Act of March 19, 1903, § 3, P. L. 43. As to exemption of property of a school district from municipal assessments, see *Pitts-*

*burgh v. Sterrett Subdistrict School*, 204 Pa. 635; *Scranton v. Scranton, S. D.*, 4 Lack J. 367.

By inadvertence no sections of the act in the text numbered 6 and 7 appear in the pamphlet laws.

4. June 1901.

Id. § 9.

Claims filed  
to use.

Notice.

Service of  
notice.

Id. § 10.

Time for fil-  
ing of munic-  
pal claims.

Certificate of  
engineer to  
be evidence.

Scire facias to  
issue within  
five years.

Judgment.

Revival.

Lien to con-  
tinue for five  
years after  
judgment.

Id. § 11.

Requisites  
of claim.

provement resulting also in the paving, macadamizing or otherwise improving the cartway of said highway; and if there be no agent or party in possession it may be posted on the most public part of the property.

13. Where claims are to be filed to use, the claimant, at least one month before the claim is filed, shall serve a written notice of his intention to file it unless the amount due is paid. Service of such notice may be made personally on the owner wherever found; but if he cannot be served in the county where the property is situated, such notice may be served on his agent or the party in possession of the property; and if there be no agent or party in possession, it may be posted on the most public part of the property.

14. Claims for taxes, water rates, lighting rates and sewer rates must be filed in the court of common pleas of the county in which the property is situated, on or before the last day of the second calendar year after that in which the taxes or rates are first payable; and other municipal claims must be filed in said court, within six months from the time the work was done in front of the particular property where the charge against the property is assessed or made at the time the work is authorized; within six months after the completion of the improvement, where the assessment is made by the municipality upon all the properties after the completion of the improvement; and within six months after confirmation by the court, where confirmation is required; the certificate of the surveyor, engineer or other officer supervising the improvement, filed in the proper office, being conclusive of the time of completion thereof, but he being personally liable to any one injured by any false statement therein. A number of years' taxes or rates of different kinds, if payable to the same plaintiff, may be included in one claim. Upon each tax or municipal claim a writ of scire facias, in the form hereinafter set forth, must issue within five years from its filing, and verdict must be recovered or judgment entered on the scire facias within five years after it is issued. Final judgment must be entered on the verdict within five years after its recovery. After judgment is entered, it must be revived by writ of scire facias to revive the judgment; or by judgment thereon within each recurring period of five years. If a claim be not filed within the time aforesaid, or if it be not prosecuted in the manner and at the times aforesaid, it shall be wholly lost; *Provided, however*, If a verdict be recovered before a jury after trial or judgment be entered on such verdict, the lien thereof shall continue for five years from such recovery or entry, though a new trial be granted or the judgment be reversed on appeal.

15. Said claim shall set forth:

(1) The name of the county, city, borough, township, school district, road district, or poor district by which filed.

(2) The name of the owner of the property against which <sup>4</sup> June 1901. it is filed.

(3) A description of the property against which it is filed.

(4) The authority under, or by virtue of which, the tax was levied or the work was done.

(5) The time for which the tax was levied or the date on which the work was completed, in front of the particular property against which the claim is filed; or the date of completion of the improvement, where the assessment is made after completion; or the date of confirmation by the court, where confirmation is required done.

(6) If filed to the use of a contractor, the date of and parties to the contract for doing said work; and,

(7) In other than tax claims, the kind and character of the work done, for which the claim is filed, and if the work be such as to require previous notice to the owner to do it, when and how such notice was given.<sup>1</sup>

Said claim must be signed by the solicitor or chief executive officer of the claimant; and in the case of a use-plaintiff, must be accompanied by an affidavit that the facts therein set forth are true to the best of his knowledge, information and belief. Affidavit of use-plaintiff.

16. The property described in tax claims shall include the whole property against which the tax is levied. The property described in municipal claims shall include the lot in front of or upon which the work is done, of such depth as is usual in properties of the same kind or character in the particular neighborhood, but not including any part of a lot abutting at the rear thereof on another highway other than an alley. Where the lot, as used, does abut at the rear thereof on another highway other than an alley, the lot shall be so apportioned as to give to both front and rear an appropriate depth, suitable, as far as may be, for the purposes thereof. Id. § 12.  
Property to be included in tax claims.  
Description.

17. Any person having an interest in the property, whensoever acquired, may, by agreement of the parties or by leave of the court, intervene as a party defendant and make defense thereto, with the same effect as if he had been originally named as a defendant [in] the claim filed. And the claimant may by writing filed at his costs, strike off the name of any defendant therein; and may substitute as a defendant, and issue a scire facias against, any person who may have acquired an interest as owner after the right to file a claim accrued, or who is the personal representative of an owner who has died either before or after filing the claim, but such substitution shall always be without prejudice to any intervening rights. Id. § 13.  
Parties having interest may intervene.  
Substitution of defendant.

18. In all cases where a tax or municipal claim is levied on or filed against separate and distinct properties as one estate, it shall and may be lawful for the proper public authority, either before or after filing a claim therefor, to apportion Id. § 14.

<sup>1</sup> See *Meadville City v. Mahoney*, 28 Pa. C. C. R. 474, as to essentials of notice.

4 June 1901.

Separate and distinct properties to be ratably apportioned for claim.

Payment of part of claim.

Id. § 15.

Petition of defendant to intervene.

Affidavit.

Rule.

Decree.

On payment into court, claim may be discharged.

Jury trial on disputed facts.

When payment or security to stand in lieu of claim.

Id. § 16.

Notice by defendant to issue scire facias.

the same ratably upon the separate and distinct properties so assessed together. And the court in which the claim is filed, on proof that the properties were separate and distinct at the time the tax was levied or the work was done, shall, at any stage of the proceedings, apportion the charge against such properties. When apportioned, they shall be treated and considered in all respects as if separate and distinct claims had been filed; and payment and satisfaction of any one portion may be made without prejudice to the claim as against the rest.

19. Any defendant named in the claim, or any person allowed to intervene and defend thereagainst, may, at any stage of the proceedings, present his petition, under oath or affirmation, setting forth that he has a defense in whole or in part thereto, and of what it consists; and praying that a rule be granted upon the claimant to file an affidavit of the amount claimed by him, and to show cause why the petitioner should not have leave to pay money into court; and, in the case of a municipal claim, to enter security in lieu of the claim; whereupon a rule shall be granted as prayed for. Upon the pleadings filed, or from the claim and the affidavit of defense, and without a petition where an affidavit of defense has been filed, the court shall determine how much of the claim is admitted or not sufficiently denied; and shall enter a decree that upon the payment by such petitioner to the claimant of the amount thus found to be due, with interest and costs if any thing be found to be due, or upon payment into court, if the claimant refuses to accept the same, and upon payment into court of a sum sufficient to cover the balance claimed, with interest and costs, or upon the entry of approved security in the case of a municipal claim, that such claim shall be wholly discharged as a lien against the property described therein, and shall be stricken from the judgment index. Thereafter the material disputed facts, if any, shall be tried by a jury, without further pleadings, with the same effect as if a writ of scire facias had duly issued upon said claim, to recover the balance thereof; but the jury shall be sworn to try the issues between the claimant and the parties who paid the fund into court or entered security, and verdict, judgment and payment, or execution, shall follow as in other cases. The same course may be pursued, at the instance of any owner, where the claim has not in fact been filed, and if, in that event, the petitioner complies with the decree made, the money paid into court or security entered shall stand in lieu of the claim, and the latter shall not be filed, and if filed shall be stricken off upon motion.

20. Any party named as a defendant in the claim filed, or admitted to defend thereagainst, may file, as of course, and serve a notice upon the claimant or upon the counsel of record to issue a scire facias thereon, within fifteen days after



notice so to do. If no scire facias be issued within fifteen <sup>4</sup> June 1901. days after the affidavit of service of notice is filed of record, the claim shall be stricken off by the court, upon motion. If a scire facias be issued in accordance with such notice, the claimant shall not be permitted to discontinue the same, or suffer a non-suit upon the trial thereof, but a compulsory non-Compulsory non-suit. suit shall be entered by the court if the claimant does not appear, or withdraws, or for reason fails to maintain his claim.

21. The claim shall be sued by writ of scire facias<sup>1</sup> in the following form: Id. § 17.

The Commonwealth of Pennsylvania, to C. D. and E. F., Form of writ of scire facias on claim.  
Greeting:

Whereas, A. B., claimant, on the ——— day of ———, A. D. 1—, filed its claim in our Court of Common Pleas of ——— County, of ——— Term, 1—, No. —, M. L. D., against you, as follows:

(Here insert claim in full.)

And whereas we have been given to understand that said claim is still due and unpaid, and remains as a lien against said property; Now, you are hereby notified to file your affidavit of defense to said claim, if defense you have thereto, in the office of the prothonotary of our said court within fifteen days after service of this writ upon you. If no affidavit of defense be filed within said time judgment may be entered against you for the whole of said claim, and the property described in the claim be sold to recover the amount thereof.

Witness the Hon. ———, President Judge of our said court, this ——— day of ———, A. D. 1—.

(Seal) ———, Prothonotary.

But the parties to the claim may agree upon an amicable Amicable scire facias. scire facias, upon such terms as may be agreed upon, with the same effect as if a scire facias, in the form aforesaid, had been duly issued, served and returned. No writ of scire facias to revive the claim shall be issued prior to judgment on the scire facias above set forth.

22. The sheriff to whom the scire facias is given for service shall add to the writ, as parties defendant, all persons, other Id. § 18. than those named therein, who may be found in possession of the property described or any part thereof; and, if no one be found in possession thereof, then he shall post a true and at- Sheriff may add other parties to writ. tested copy of the writ on the most public part of said property. He shall also make inquiries of at least three persons, Posting of copy of writ. separately residing upon or nearest thereto, as to the names

<sup>1</sup> A scire facias sur municipal claim takes the place of a statement under the Practice Act of May 25, 1887, and the defendant must file an affidavit of defence to it to prevent judgment from being taken against him. *Oil City v. Hartwell*, 164 Pa. 348. With reference to the sufficiency of the affidavit in certain par-

ticulars, see *Harrisburg v. Baptist*, 156 Pa. 526; *Oil City v. Lay*, 164 Id. 370; *Scranton v. Leovers*, 200 Id. 56. As to suggestion of death of defendant after judgment on a municipal claim, and substitution of his heirs as parties, see *Philadelphia v. Jenkins*, 162 Id. 451.

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and residences of the real owners of said property, and shall add their names to the writ as parties defendant, if not already named therein, which shall then be further served as follows:

Service of writ.

(a) By serving, as in the case of a summons, such of those named in the writ, or added thereto, as may be found in the county in which the writ issued; and,

Service in another county.

(b) By serving, as in the case of a summons, such of those named in the writ, or added thereto, as may be found in any other county of the commonwealth by the sheriff thereof, who shall be deputized for that purpose by the sheriff of the county in which the writ issues; and,

Service by mail.

(c) If all those named in the writ, or added thereto, cannot be served as provided in clauses (a) and (b) hereof, then by mailing a true and attested copy of the writ, in a registered letter, to such of those named in the writ, or added thereto, whose residences are given as without the commonwealth, and by advertising a brief notice of the contents of said writ, once a week for four successive weeks, in one newspaper of general circulation in the county, and in the legal periodical, if any, designated by the court for that purpose; *Provided, however,* That if all those named in the writ, or added thereto, have been personally served, or if return registry receipts for the copies mailed are returned by the sheriff with the writ, the advertisement above provided for may be dispensed with; *And provided further,* That any defendant may accept service of said writ in person or by counsel, with the same effect as if duly served therewith by the sheriff.

Advertisement.

When advertisement may be dispensed with.

Acceptance of service.

Contents of notice.

Time of service of writ.

Id. § 19.

Assessment of damages.

Attorney fee for collection.

Rule for judgment.

Replication.

The notice herein provided for shall always state that judgment may be entered and the property sold if an affidavit of defense be not filed within fifteen days after a date named, which shall be the date fixed for the last advertisement. Service of any such writ may be made at any time within three months from the date on which it was issued, but it shall be served and returned at the earliest date possible, and the plaintiff may require its return at any time, whether or not it be actually served.

23. If no affidavit of defense be filed within the time designated, judgment may be entered and damages assessed by the prothonotary by default, for want thereof. Such assessment shall include a five per cent. fee for collection to plaintiff's attorney, not exceeding, however, twenty dollars. If an affidavit of defense be filed, a rule may be taken for judgment for want of a sufficient affidavit of defense, or for so much of the claim as is insufficiently denied, with leave to proceed for the residue. The defendant may, by rule, require the plaintiff to reply, under oath or affirmation, to the statements set forth in the affidavit of defense, and after the replication has been filed may move for judgment on the whole record.

24. Tax claims shall be prima facie evidence of the facts averred therein in all cases; and the averments in both tax and municipal claims shall be conclusive evidence of the facts averred therein, except in the particulars in which those averments shall be specifically denied by the affidavit of defense, or any amendment thereof duly allowed. A compulsory nonsuit, upon trial, shall be equivalent to a verdict for defendant, whether the plaintiff appeared or not. If plaintiff recovers a verdict, upon trial, in excess of the amount admitted by the defendant in his affidavit of defense or pleadings, he shall be entitled to an attorney's fee for collection, equal to five per cent. of such excess, but not exceeding fifty dollars.

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§ 20.

Tax claims to be evidence of facts averred therein.

Except where denied by affidavit.

Compulsory non-suit.

Attorney's fee upon verdict.

25. The judgment upon such claim may be revived by writ of scire facias<sup>1</sup> in the following form:

Id. § 21.

Scire facias to revive.

The Commonwealth of Pennsylvania, to C. D. and E. F.,  
Greeting:

Form of writ.

Whereas, A. B., claimant, on the ——— day of ———, A. D. 1—, recovered judgment in the sum of ——— dollars against you, that the following described property be sold to satisfy the same:

(Here describe property in full.)

And whereas, we have been given to understand that though judgment, as aforesaid, was rendered, yet the amount thereof is still due and unpaid, and remains as a lien against said property: Now, you are hereby notified to file your affidavit of defense to A. B.'s claim upon said judgment, if any defense you have, in the office of the prothonotary of our said court, within fifteen days after service of this writ upon you. If no affidavit of defense be filed within that time, said judgment may be revived against you for the amount set forth, with interest from the time of its recovery, and said property be sold to recover the whole thereof.

Witness the Hon. ———, President Judge of our said court, this ——— day of ———, A. D. 1—.

(Seal) ———, Prothonotary.

But the parties to the judgment may agree<sup>1</sup> upon an amicable scire facias to revive, or to an amicable judgment of revival, upon such terms as may be agreed upon, with the same effect as if a scire facias in the form aforesaid had been duly issued, served and returned.

Amicable revival.

26. Said writ of scire facias to revive shall be served, and the proceedings thereon shall be conducted, in the manner hereinbefore provided for the original scire facias sur claim, unless personal service was made upon all the defendants in the original proceeding; in which event, two returns of nihil

Id. § 22.

Service of writ.

<sup>1</sup> An agreement between the city solicitor and a property owner to revive and continue the lien for five years from the date thereof, registered in the proper of-

fice, has the effect of an adverse proceeding. *Harrisburg v. Aughinbaugh*, 8 Dist. R. 491.

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habet to the writs to revive, shall be equivalent to personal service upon the defendants.

Id. § 23.

Practice.

27. The practice and procedure following said scire facias to revive, so far as applicable, shall be the same as in the case of the original scire facias to collect the claim.

Id. § 24.

Judgment for plaintiff to be de terris only.

Costs, how recovered.

28. All judgments for the plaintiff, whether on the original scire facias or any scire facias to revive, shall be de terris only, and shall be recovered out of the property bound by the lien, and not otherwise; but the costs, whether as against the plaintiff, or the defendant actually defending against the claim, may be recovered by execution as in personal actions.

Id. § 25.

When sequestrator may be appointed.

29. After the expiration of twenty days from the recovery of judgment, whether on the original scire facias or any scire facias to revive, except in cases where the property named is essential to the business of a quasi-public corporation, the court shall, upon the petition of the plaintiff, appoint a sequestrator of the rents, issues and profits of the property bound by the judgment, unless in the meantime an appeal be taken, and approved security given to operate as a super-sedeas. If the owner against whom the judgment is entered be in possession of the property sequestered, or the party in possession refuse to pay a fair rent, the court shall, upon petition filed and served, grant a rule, and, if it be made absolute, award a writ in the nature of a writ of habere facias possessionem, directed to the owner, commanding him to deliver such possession to the sequestrator within fifteen days thereafter, unless such property be occupied by the owner and his family for a home, in which case he shall be entitled to retain possession for a period of three months from the time the petition was served upon him.

Appeal to be super-sedeas.

Writ of possession.

Id. § 26.

Claims, verdicts, etc., to be docketed and entered on judgment index.

30. Every claim filed, scire facias issued, verdict recovered and judgment entered, in accordance with the provisions of this act, shall be docketed in appropriate dockets, and, except as hereinafter provided, shall be entered upon the judgment index of the court. When a claim is stricken off or satisfied, the name of a defendant stricken out, a scire facias discontinued or quashed, or a verdict or judgment stricken off or satisfied, a note thereof shall be made on such docket or dockets; *Provided, however,* That in counties in which the filing of liens for county taxes was authorized by law prior to the passage of the act of one thousand nine hundred and one, aforesaid, the method of filing, entering, docketing and indexing liens, for county, road, poor, school, borough, school building, township, and other taxes assessed in boroughs and townships, in such counties, shall remain and be continued thereafter, in the same manner and form as in use prior to the passage of the said act, approved June fourth, one thousand nine hundred and one, notwithstanding the passage of the same.<sup>1</sup>

Exceptions in certain counties.

<sup>1</sup> The section amended as above by Act of April 3, 1903, P. L. 152.

31. It shall be the duty of the prothonotaries of the courts <sup>June 1901.</sup> of common pleas to keep a locality index,<sup>1</sup> in which shall be <sup>§ 27.</sup> entered all tax or municipal claims hereafter filed, and upon <sup>Locality index to be kept.</sup> any written order therefor they shall give a certificate of <sup>Certificates of search.</sup> search, showing all the claims filed against any property. For <sup>Fee.</sup> so doing they shall receive the sum of twenty-five cents, and five cents additional for each claim certified, and no more.

32. At any time before the property is sold, approved security may be entered for a stay of proceedings until the expiration of one year after the date of filing the claim. The entry of such security by the owner, before the entry of judgment on the claim, shall be equivalent to an admission by him <sup>Id. § 28.</sup> that the property is liable for the claim. After the stay has expired the claimant may proceed upon the claim and the bond given, separately or simultaneously. <sup>Security for stay of proceedings.</sup>

33. Execution upon any judgment recovered upon any such claim, except where the property named is essential to the business of a quasi-public corporation, shall be by writ of <sup>Id. § 29.</sup> <sup>Writ of levari facias.</sup> levari facias, in the following form:

The Commonwealth of Pennsylvania. <sup>Form of writ.</sup>

To the Sheriff of ——— County, Greeting:

Whereas, A. B., claimant, on the ——— day of ———, Anno Domini 1—, recovered judgment in the sum of ——— dollars, with interest from the ——— day of ———, Anno Domini 1—, and the costs, amounting to ——— dollars, in our Court of Common Pleas of said county of ———, Term ———; No. ———, M. L. D. against C. D. and E. F., that the following described property in your bailiwick be sold to satisfy the same, viz.:

(Here describe the property in full.)

Now, this is to command you that you expose the said property to sale by public vendue and outcry, after due advertisement according to law, and that return of said sale, with the moneys realized thereby and this writ, you make to our said court on the ——— day of ———, Anno Domini 1—.

Witness the Honorable ———, President Judge of our said court, this ——— day of ———, Anno Domini 1—.

Advertisement of such sale shall be made and the deed to the purchaser shall be executed, acknowledged and delivered as in other real estate sales by the sheriff. <sup>Advertisement of sale.</sup>

34. The plaintiff in any judgment recovered on a tax or municipal claim may, upon paying the sheriff's costs, fix an upset price to be realized at any sale under such judgment, sufficient to pay his claim in full. No sale shall be made on a judgment recovered on a tax claim, except for a sum sufficient to pay all taxes in full, and the plaintiff in such judgment may purchase the property, at such sale for that sum, if no one bids a higher price therefor. <sup>Id. § 30.</sup> <sup>Plaintiff may fix minimum price.</sup> <sup>Plaintiff may become purchaser.</sup>

<sup>1</sup> See *Erie City v. Wallis*, 26 Super. Ct. R. 459.

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§ 81.

Execution  
against quasi  
corporations.

Distribution.

Id. § 82.

Effect of ju-  
dicial sales.

Lien to be dis-  
charged to ex-  
tent of pro-  
ceeds realized.

Order of pri-  
ority of pay-  
ment of  
claims.

Lien of mort-  
gages, ground  
rents, etc.

Petition of  
plaintiff for  
sale of lien  
premises un-  
sold by sheriff.

Requisites of  
petition.

Rule.

Decree.

Return and  
subsequent  
proceedings.

35. Where judgment is recovered upon any claim, the property named in which is essential to the business of a quasi-public corporation, the claimant shall have execution thereupon as in other cases of judgments against such corporations. Upon the distribution of any fund realized by a sale of the franchises, and the whole or any part of the assets of the corporation, the court shall determine the actual value of the property bound by the lien, and the claim shall be preferred with such other claims, to the extent of the value thus determined.

36. A judicial sale of the property liened shall not discharge the lien of any other tax or municipal claim than that upon which such sale is had, except to the extent that the proceeds realized are sufficient for its payment, after paying the costs and expenses of the sale and of the writ upon which it was made. On any such sale being made, all tax claims shall be paid out of the proceeds thereof first, the oldest tax having priority, and municipal claims shall be paid next, the oldest in point of lien having priority. Mortgages, ground-rents and other charges on, or estates in, the property, which were recorded, or created where recording is not required, before any tax other than for the current year accrued, or before the actual doing of the work in front of or upon the particular property for which the municipal claim is filed, shall not be disturbed by such sale unless a prior lien is also discharged thereby; *Provided, however,* That upon the petition of the plaintiff, in any such tax or municipal claim, setting forth that more than five years have elapsed since the filing of his claim; that he has exposed the property to sheriff's sale thereunder and was unable to obtain a bid sufficient to pay his claim in full; and, if a municipal claimant, that he will bid sufficient to pay all tax claims in full; and upon the production of searches or a title insurance policy, showing the state of the record and the ownership of the property, and of all liens, claims, mortgages, ground-rents, or other charges on, or estates in, the land, the court shall grant a rule upon all parties thus shown to be interested to appear and show cause why a decree should not be made that said property be sold, freed and clear of their respective claims, liens, charges and estates. If upon hearing thereafter, the court is satisfied that personal service has been made of said rule upon the parties respondent, wherever found, and that the facts stated in the petition be true, it shall order and decree that said property be sold, freed and discharged of all tax and municipal claims, at a minimum bid sufficient to pay all tax claims in full, return thereof to be made to the court; and if, upon such return, it further appears that no sale was made, because no one was willing to bid a sum sufficient to pay the petitioner's claim in full, it shall further decree that said property be sold, clear of all such claims, liens, charges and

estates, at a minimum bid sufficient to pay all tax claims in full. If at the last-named sale no other person is willing to bid a sum sufficient to pay all tax claims in full, the property shall be knocked down to and title made to the treasurer of said county, for the benefit of the various tax claimants, in the order of priority hereinbefore set forth; and after the time for redemption has expired, said property may, under direction of said claimants or by decree of the proper court, be sold either at public or private sale, freed and discharged of all claims, and the proceeds realized therefrom distributed in accordance with the priority of said claims; *Provided* further, That any person interested may, at any time before the sale, pay the petitioner the whole of his claim, with interest and costs, whereupon the proceedings on said petition shall at once determine.

<sup>4</sup> June 1901.

Title to be made to county treasurer.

Re-sale.

Discharge of tax claims.

Proviso.

For the purpose of enabling the petitioner in any such proceeding to give the notice required, he may take the testimony of the defendant in the claim, or of any other person whom he may have reason to believe has knowledge of the whereabouts of any of the parties respondent, either by deposition, commission or letters rogatory.

Petitioner may take testimony of defendant.

37. The owner of any property sold under a tax or municipal claim, or his assignees, or any party whose lien or estate has been discharged thereby, may redeem the same at any time within one year from the date of the acknowledgment of the sheriff's deed therefor, upon payment of the amount bid at such sale; the cost of drawing, acknowledging and recording the sheriff's deed; the amount of all taxes and municipal claims, whether or not entered as liens, if actually paid; the principal and interest of estates and encumbrances, not discharged by the sale and actually paid; the insurance upon the property, and other charges and necessary expenses on the property, actually paid, less rents or other income therefrom, and a sum equal to interest at the rate of ten per centum per annum thereon, from the time of each of such payments. If both owner and creditor desire to redeem, the owner shall have the right so to do only in case he pays the creditor's claim in full. If more than one creditor desires to redeem, the one who was lowest in lien at the time of sale shall have the prior right, upon payment in full of the claim of the one higher in lien. Within the year, one who was lower in lien may redeem for one higher in lien who has already redeemed, and the owner may redeem from him; and so on throughout in each case by paying the claim of the one whose right was higher; and one higher in lien may redeem from one lower in lien, unless his claim is paid; but in each case the right must be exercised within the year. Any person entitled to redeem may present his petition to the proper court, setting forth the facts, and his readiness to pay the redemption money; whereupon the court shall grant a rule to show cause why the pur-

Id. § 33.

Redemption by owner of property sold.

Conditions.

Redemption by creditors.

Priority of right to redeem.

Petition of redeeming creditor.

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Decree.

chaser should not reconvey to him the premises sold; and if, upon hearing, the court shall be satisfied of the facts, it shall make the rule absolute, and upon payment being made or tendered, shall enforce it by attachment.

Id. § 34.

Assignment of  
tax claim.Right of one  
of several de-  
fendants, etc.,  
paying claim.

38. Any claim filed or to be filed, under the provisions of this act, and any judgment recovered thereon, may be assigned or transferred to a third party, either absolutely or as collateral security, and such assignee shall have all the rights of the original holder thereof. Where the claim has been paid in full by one of several defendants therein, whether originally named as such or allowed to intervene and defend, it shall be satisfied of record as to him, and marked to his use as against the other defendants, pro rata, according to their respective interests in the property bound by the claim.

Id. § 35.

Amendment  
of claims or  
proceedings.

Limitation.

Extension of  
time for  
amendment.

Limitation.

Id. § 36.

Return of  
rules.Filing of  
answers.

Replications.

39. Any claim, petition, answer, replication, scire facias, affidavit of defense, or other paper filed of record, may be amended from time to time, by agreement of the parties or by leave of the court, upon petition for that purpose, under oath or affirmation, setting forth the amendment desired, that the averments therein contained are true in fact, and that by mistake they were omitted from or wrongfully stated in the particulars as to which the amendment is desired. Such amendments shall be of right, saving intervening rights, except that no amendment of the claim shall be allowed, after the time for its filing has expired, which undertakes to substitute an entirely different property from that originally described in the claim; but the description of the property may be amended so as to be made more accurate, as in other cases of amendment.<sup>1</sup> The court may, for cause shown and filed of record, enlarge the time for filing the affidavit of defense, answer or replication, for issuing a scire facias or for entering security, by rule or special or standing order; and any judgment by default may be opened by the court, upon cause shown by interveners or other defendants, as in other cases; but no enlargement of the time for issuing a scire facias shall extend the same beyond the time herein provided for preserving or retaining the lien thereof.

40. Any rule granted under the provisions of this act may be made returnable at such time as the court may direct, either therein or by rule of court, or by special or standing order. All petitions, answers and replications shall be under oath or affirmation. Answers must be filed and served within fifteen days after service of the petition; and rules and replications must be filed within fifteen days after service of the last of the answers. Replications must be confined to a reply to new matter, set forth in the an-

<sup>1</sup> This section appears to supply, as to the amendment of municipal claims, the provisions of § 9 of the Act of April 21, 1858, P. L. 387, published in the former edition of the Digest (p. 129). The lat-

ter, though part of an act supplementary to the act incorporating the city of Philadelphia, was held to be a general law. *Allentown v. Hower*, 93 Pa. 332; *Philadelphia v. Richards*, 124 Id. 303.



swers. The facts averred by either party, and not denied <sup>4 June 1901.</sup> in the answer or replication of the other, shall be taken <sup>Averment of facts.</sup> as true in all subsequent proceedings in the cause, without the necessity for proof thereof, unless amended as herein set forth. Any fact necessarily found by the court in finally determining a rule, shall also be taken as true in all subsequent proceedings in the cause, without the necessity for proof thereof, unless either party, by writing filed and served at least ten days prior to the time fixed for trial, requires that it be submitted to the jury.

41. All notices, petitions and rules shall be served upon counsel for the parties interested, or upon the parties themselves, in the manner bills in equity are served, or upon the owner by leaving a copy with the party in possession of the real estate, or, in default of service in any of the methods stated, then in such manner as the court shall direct. <sup>Id. § 37.</sup> <sup>Service of notices, petitions, etc.</sup>

42. Whenever security is required to be given, in accordance with the provisions of this act, it may be approved by the prothonotary, subject to an appeal to the court as in other cases. If thereafter the security be found to be insufficient, new security may be required within a given time; in default of the entry of which, the cause may proceed with the same effect as if none had been given, the sureties, however, remaining liable. By agreement of the parties, or upon approval by the court, after notice, new security may be entered in lieu of that originally taken, and an exoneretur entered on the first bond; or the security given may be limited to a particular property, if clear of encumbrances, and if also the security be entered as a lien upon said property. <sup>Id. § 38.</sup> <sup>Security, how to be approved.</sup> <sup>New security.</sup> <sup>Exoneretur.</sup>

43. In cases where there is a use-plaintiff, if the claim shall be paid, or otherwise satisfied or discharged, at any time before or after filing, it shall be the duty of the use-plaintiff or his legal representatives, at the request of the owner or of any other person interested, by a statement in writing showing how the claim was paid, satisfied or discharged, and on the payment of costs if any be due, to enter satisfaction on the record of such claim. In such cases, a refusal to satisfy the claim for a period of sixty days after notice so to do, served upon the use-plaintiff or his agent or attorney, shall subject such use-plaintiff to a suit, as for penalty, at the hands of the party aggrieved, in such sum as the jury shall determine to be just, but not exceeding the amount of the claim. <sup>Id. § 39.</sup> <sup>Use-plaintiff to enter satisfaction on payment of claim.</sup> <sup>Penalty for neglect.</sup>

44. From any definite judgment, order or decree, entered by the court of common pleas under any of the provisions of this act, or from the refusal to open a judgment entered by default, an appeal may be taken by the party aggrieved to the supreme or superior court, as in other cases. <sup>Id. § 40.</sup> <sup>Right of appeal to higher court.</sup>

45. This act shall apply only to claims wherein the right to file a lien accrues after the date of its approval; but the <sup>Id. § 41.</sup> <sup>Application of act.</sup>

4 June 1901. rights of other claimants, under existing laws, shall remain unaffected by its passage, and all claims properly filed thereunder are hereby validated. And this act shall not apply to taxes assessed upon unseated land.<sup>1</sup>

<sup>1</sup> The section amended as above by the Act of March 26, 1903, P. L. 63. The lengthy and comprehensive act in the text is entitled "An act providing when, how, upon what property and to what extent liens shall be allowed for taxes and for municipal improvements, and for the removal of nuisances; the procedure upon claims filed therefor, the methods for preserving such liens and enforcing payment of such claims; the effect of judicial sales of the properties liened, and the manner of distributing the proceeds of such sales." The bill originated with the Pennsylvania Bar Association, and the report of the committee which devised it, together with the draft and the discussion thereon, is to be found in the sixth annual report of the Pennsylvania Bar Association (1900), pp. 21-68; 97-121. By the repealing section (42), P. L. 379, a large number of acts, local and general, are specifically repealed, whilst so much of other acts therein enumerated (P. L. 380), is repealed in so far as they provide: (a) For the extent of the lien for taxes, or for municipal improvements, either before or after the filing of claims therefor, or (b) for the practice or procedure in relation to, or in continuing the

lien of, or in enforcing payment of such tax or municipal claims after filing"—the intention of the act being, as set forth in the concluding paragraph, "to furnish a complete and exclusive system in itself, so far as relates to the practice and procedure for the filing, collection and extent of tax and municipal claims, the right to file which accrued after the approval of this act." Among the general acts specifically repealed are those of May 4, 1889, P. L. 79; April 22, 1891, P. L. 25; May 16, 1891, P. L. 69, and July 26, 1897, P. L. 420, all of which were published in the former edition of the Digest, Article XV. of the Municipal Act of May 23, 1889, relating to taxation and municipal claims, is affected in part by the repeal, but portions of the article have been preserved in the present compilation because of their continuing force. The exact state of the law upon the subject of municipal claims under these sweeping modifications of previous statutes remains to be discovered by judicial interpretation. The act in the text being prospective in its operation, the collection of liens filed under the Act of 1889 is not affected by it. *Scranton City v. Stokes*, 28 Super. Ct. R. 434.

## Nuisances.

1. Power of councils to proceed for abatement of nuisances. Petition to court. Contents of petition. Viewers to be appointed. Notice to parties interested. Report of viewers.

2. Finding of viewers. Report as to compensation to owner. Appeal from award. Compensation not to be made until nuisance is abated.

3. Either party may appeal. Form of ap-

peal. Costs and bond. Issue to be framed. To be tried by jury. Finding and award. Execution not to issue on judgment before nuisance is abated.

4. On failure to abate nuisance within sixty days, city authorities to proceed to abate the same. Expense to be deducted from amount awarded.

5. Act not to apply to nuisances per se.

26 June 1895.  
§ 1. P. L. 367.

Power of councils to proceed for abatement of nuisances.

Petition to court.

Contents of petition.

Viewers to be appointed.

Notice to parties interested.

1. From and after the passage of this act it shall be lawful for the select and common councils of any city of the third class within this commonwealth, by a joint resolution, to authorize and empower the mayor of such city to present a petition to the court of common pleas of the county wherein such city is located, setting forth that any property, building, premises, business or occupation, specifying the same fully and describing the same accurately, located within said city has become a public nuisance, injurious or dangerous to the community [or] to the public health, and upon the presentation and hearing of such petition, if the nuisance complained of be not a nuisance per se, then it shall be lawful for the court to appoint six disinterested and discreet freeholders of said county to go upon the premises where said nuisance is alleged to exist, at a time to be fixed in the order appointing the same, of which time due notice shall be given to all persons interested, which shall be not less than twenty nor more than

thirty days from the date of the order making such appointment, and shall thereupon, being first duly sworn, view the property, premises, building, business or occupation, shall hear the parties, their witnesses and counsel, and shall make due report thereof to the court appointing them.

26 June 1895.

Report of viewers.

2. The said viewers appointed as aforesaid shall have power:

Id. § 2.

First. To determine whether or not the property, premises, building, business or occupation is a nuisance, and if they shall find it is a nuisance shall so return in their award; and

Finding of viewers.

Second. They shall further find what, if any, compensation shall be paid by the said city to the owner or owners of said property, premises, building, business or occupation for the abatement of the same, and if the findings of the said viewers be in favor of the said city and direct the abatement of said nuisance, then judgment shall be entered upon their award within thirty days after the same is filed, unless the said award be appealed from, or exceptions thereto be filed within thirty days; *And provided*, That no execution or other process for the collection of any sum of money awarded to any person or persons, corporation or corporations as compensation for the abatement of any nuisance shall issue until the said nuisance has been fully and completely abated, and return thereof made to the court.

Report as to compensation to owner.

Appeal from award.

Compensation not to be made until nuisance is abated.

3. Any of the parties interested in any proceedings provided by the first and second sections of this act may appeal to the court of common pleas of the proper county within thirty days from the date of filing an award; such appeal to be in the same form as now governs appeals from the awards of arbitrators, the party appealing to pay the costs incurred and to give bond, with one surety, for the payment of all costs which may thereafter be incurred; and upon such appeal being perfected the court shall frame an issue, which issue shall be placed at the head of the next trial list then open, and shall be tried by the court and jury in the same manner as feigned issues are now tried, and upon such trial the jury shall have power to find the same facts as are provided may be found by the viewers in the first section of this act, and if the jury shall find in favor of the city and award any compensation to the owner or owners of said property, premises, building, business or occupation, judgment shall be entered upon the verdict of a jury; *Provided, however*, That no execution or other process for the collection of such judgment shall issue until the nuisance complained of shall have been fully and completely abated, and return thereof made to the court, upon which the court shall have power to award execution or other process necessary to enforce the collection of the judgment.

Id. § 3.

Either party may appeal.

Form of appeal.

Costs and bond.

Issue to be framed.

To be tried by jury.

Finding and award.

Execution not to issue on judgment before nuisance is abated.

26 June 1895.  
§ 4.

On failure to  
abate nuisance  
within sixty  
days, city au-  
thorities to  
proceed to  
abate the  
same.

Expense to be  
deducted from  
amount  
awarded.

Id. § 5.

Act not to  
apply to  
nuisances  
per se.

4. Whenever the award of viewers or the verdict of a jury shall find that a nuisance exists, and the owner or owners of any property, premises, building, business or occupation causing the same shall fail to abate the same within sixty days from the date of the judgment, the authorities of said city shall have full power and authority to enter upon said property, premises or building where said nuisance exists, and abate the same, and shall not be liable in any form of action for so doing; and the cost and expense of abating the same shall be deducted from any compensation awarded in said proceedings.

5. This act is intended to apply only to such nuisances as are not such per se, and all acts or parts of acts inconsistent herewith shall be and the same are hereby repealed.

## Ordinances.

[See CORPORATE POWERS—LEGISLATIVE DEPARTMENT.]

1. How ordinances to be passed. To be referred and printed. Subject to be expressed in title.

2. Bills to be read at length. Amendments. Vote on final passage to be by yeas and nays.

3. Vote on amendments. Reports of conference committees.

4. Computation of time in statutes or

rules of court. Legal holidays to be omitted. Proviso.

5. Rule to apply to municipal ordinances, resolutions, etc.

6. Misnomer, omission, etc., in title of municipal corporation not to affect validity of ordinances. Proviso.

7. Ordinances not recorded as required by law to be recorded within thirty days. To be valid when so recorded.

23 May 1899.  
Art. IV., § 2.  
P. L. 228.

How ordinan-  
ces to be  
passed.  
To be referred  
and printed.

Subject to be  
expressed in  
title.

Id. § 3.

Bills to be  
read at length.

Amendments.

1. No ordinance shall be passed by councils except by bill, and no bill shall be so altered or amended on its passage through either branch as to change its original purpose.

No bill shall be considered unless referred to a joint or separate committee, returned therefrom and printed for the use of the members; and

No bills except general appropriation bills shall be passed containing more than one subject, which shall be clearly expressed in its title.<sup>1</sup>

2. Every bill shall be read at length in each branch; all amendments made thereto shall be printed<sup>2</sup> for the use of the members before the final vote is taken on the bill, and no bill shall be passed finally in either branch upon the same day on

<sup>1</sup> The section amended as above by Act of May 16, 1901, § 3, P. L. 228. If the title of an ordinance fairly gives notice of the subject-matter it is sufficient; it need not be a complete index to the contents. *Ealing's App.*, 89 Pa. 205. But the title to an act must not only embrace the subject of the proposed legislation, but also express the same so clearly and fully as to give information of the legislative purpose to those who may be specially interested therein. *Road in Phoenixville*, 109 Pa. 44, 49. See also *Rogers v. Improvement Co.*, Id. 109; *Otto Township Road*, 2 Super. Ct. R. 20; *Commonwealth v. Clark*, 3 Id. 141; *Commonwealth v. Jones*, 4 Id. 362; *Harrisburg v. Eby*, 13

Pa. C. C. R. 124. If an act entitled a supplement to a former one, the date and title of which are given, be germane to the subject of the original statute, its subject is sufficiently expressed. *Craig v. First Presbyterian Church*, 88 Pa. 42; *Millvale Borough v. Evergreen Railway Co.*, 131 Id. 1. If the title be simple, it is only those provisions of the act that are not covered by it that are void; the portion of which the title gives notice will be sustained. *Dewhurst v. City of Allegheny*, 95 Pa. 437. The title and preamble are parts of the ordinance itself. *Beechwood Ave.*, 194 Id. 86.

<sup>2</sup> See *Morrelleille Borough's Annexation*, 7 Super. Ct. R. 532.

which it was introduced or reported.<sup>1</sup> On its final passage the vote shall be taken by yeas and nays, and the names of the persons voting for and against the same be entered on the journal, and no bill shall be passed finally unless a majority of the members elected to each branch be recorded thereon as voting in its favor.<sup>2</sup>

3. No amendment to bills by one branch shall be concurred in by the other except by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting for and against the same recorded upon the journal thereof; and reports of committees of conference shall be adopted in either branch only by the vote of a majority of the members elected thereto, taken by yeas and nays, and the names of those voting recorded upon the journals.

4. Where by any existing law or rule of court, or by any law or rule of court that may hereafter be enacted and made, the performance or doing of any act, duty, matter, payment or thing shall be ordered and directed, and where any court shall, by special or other order, direct the performance or doing of any act, matter, payment, sentence or decree, and the period of time or duration for the performance or doing thereof shall be prescribed and fixed, such time in all cases shall be so computed as to exclude the first, and include the last days of any such prescribed or fixed period or duration of time;<sup>3</sup> *Provided*, That whenever the last day of any such period shall fall on Sunday, or on any day made a legal holiday<sup>4</sup> by the laws of this commonwealth, or of the United States, such day shall be omitted from the computation; *And provided*, That this act shall not apply to the payment of negotiable paper.<sup>5</sup>

5. The provisions of this act shall also apply to the ordinances, resolutions, by-laws and other regulations of all municipal or other public or private corporations now existing or hereafter created.<sup>6</sup>

6. No misnomer, omission, informality, or irregularity heretofore made or occurring of or in the name, style or title of any municipal corporation of the commonwealth of Penn-

<sup>1</sup>This restriction applies with equal force to both branches of councils, that in which a bill has been first introduced as well as the other branch to which it has been messaged or reported after it has been fully acted on by the former. *Altoona v. Bowman*, 171 Pa. 307.

<sup>2</sup>This language is identical with the constitutional requirement relative to the passage of an act of assembly. The legislative interpretation of the provision is that the constitutional majority is the majority of the whole constituent number of the branch when its membership is full, without regard to existing vacancies. Senate Decisions, Smull's Leg. Hand. (1889), 569, 583.

<sup>3</sup>This statute was declaratory of the law as it existed prior to its passage. *Lutz's App.*, 124 Pa. 273.

<sup>4</sup>Existing legal holidays are designated by the Act of June 23, 1897, P. L. 188. They interfere in no wise with the lawful transaction of secular business, public or private, their only significance in this respect being, by the provisions of the act, in reference to the maturity and payment of negotiable paper.

<sup>5</sup>Its operation is limited exclusively to the cases therein specified. *Cascade Overseers v. Lewis Overseers*, 148 Pa. 333.

<sup>6</sup>By the Act of April 13, 1887, P. L. 21, "the mean solar time of the seventy-fifth meridian of longitude west of Greenwich, commonly called eastern standard time," is fixed as the sole and uniform legal standard of time throughout the commonwealth.

23 May 1889.  
Art. IV.

Vote on final  
passage to be  
by yeas and  
nays.

Id. § 4.  
Vote on  
amendments.

Reports of  
conference  
committees.

20 June 1888.  
§ 1. P. L. 136.

Computation  
of time in  
statutes or  
rules of court.

Legal holidays  
to be omitted.

Proviso.

Id. § 2.

Rule to apply  
to municipal  
ordinances,  
resolutions,  
etc.

10 March 1906.  
§ 1. P. L. 84.

10 March 1906

Misnomer,  
omission, etc.,  
in title of mu-  
nicipal corpo-  
ration not to  
affect validity  
of ordinances.

Proviso.

8 April 1906.  
§ 1. P. L. 119.

Ordinances not  
recorded as re-  
quired by law  
to be recorded  
within thirty  
days.

To be valid  
when so re-  
corded.

sylvania, in any ordinance, by-law or regulation passed by the councils thereof, and approved by the mayor or burgess thereof, for the government of the inhabitants within the territorial limits comprising the same; or in elections held therein to incur or increase the indebtedness thereof; or in the annexation of territory thereto or extending the limits thereof, over which jurisdiction has been and now is exercised by the corporate authorities; or in the issuing of bonds for the indebtedness thereof; or in deeds or other conveyances of lands or hereditaments, to or from the same; or contracts by or with the same; or in any other ordinance, matter or thing within the lawful powers or duties thereof, shall invalidate the same; but all such ordinances, elections, annexations or extensions of territory, bonds, deeds, contracts, and all other matters or things done as aforesaid, are hereby validated and made good in law, as if done in the proper corporate name of such municipality; *Provided*, That the matters hereinbefore validated shall be otherwise legal; and that this act shall not affect any suit or suits now pending.

7. In all cities or boroughs of this commonwealth the city clerks or the clerks of the select or common council, of the said city or borough, whose duty it is to record all ordinances passed by the select and common councils and approved by the mayor, or passed by a legal majority of councils without his approval, or becoming a law by reason of the mayor not having returned the same, and who have duly published any such ordinance or ordinances, as required by law, but have failed or neglected, within the time directed by law, to so record any such ordinance or ordinances, in books provided by the said cities or boroughs for that purpose, be and they are hereby authorized to record all such ordinances within thirty days from the passage of this act, with the same power and effect as if originally recorded in time; and each and every of such ordinances, when so recorded within thirty days from the passage of this act, shall be as valid and effectual to all intents and purposes as if the same had been recorded within the time and in the manner heretofore directed by law; and all contracts, obligations and payments heretofore made or given, or hereafter to be made or given, in pursuance of any such ordinance or ordinances, shall, when such ordinance or ordinances shall be recorded within the time and in the manner herein provided, be as valid and binding as though the said ordinance or ordinances had been originally recorded within the time and in the manner required by law.

## Passenger Railways.

1. Constitutional provision.
2. Incorporation of street railway companies. Occupation of streets.
3. Branches or extensions. Resolution to be filed. If governor approves, certificate to issue.
4. Right of companies to use portions of tracks of other companies. Consent of company whose tracks are used.
5. Consent of local authorities to construction of passenger railways. Route to be continuous.
6. When construction of railway to begin. To be completed within two years.
7. Passenger railways may be constructed along turnpikes. Consent of owners of fee to be obtained. Compensation to be made before entry. Proceedings in case parties cannot agree. Viewers to be appointed. Damages to be assessed. Confirmation of report. Appeal. Payment of award into court. Security.
8. Crossing of steam, etc., railroads at grade.
9. Passenger railways to have right of way in streets. Penalty for obstructing passage of cars.

10. Passenger railways may carry U. S. mails.
11. Portions of road may be abandoned with consent of local authorities. Contract to be filed. Rights of steam railroads not to be affected. When franchise to be deemed abandoned.
12. Application to local authorities to use streets to be made within two years. Work to begin within same period. In default, right to be deemed abandoned.
13. Companies may acquire lands for track connections.
14. Passenger railway lines not to connect with railroads.
15. Removal of street railway tracks by municipal authorities. Agreement with companies. Contract to be entered into. Stipulation as to non-occupation of streets by other companies. To be enforceable in equity. Contract to form part of charter of company. Right of contracting company not to be forfeited. Rights of steam railroads not to be affected.
16. Repeal.

1. No street passenger railway shall be constructed within the limits of any city, borough or township without the consent of its local authorities.<sup>1</sup>

Const. 1874.  
Art. XVII,  
§ 9.

2. Any number of persons, not less than five, may form a company for the purpose of constructing, maintaining and operating a street railway for public use in the conveyance of passengers by any power other than locomotives on any street

Constitutional provision.  
14 May 1889.  
§ 1. P. L. 211.  
Incorporation of street railway companies.

<sup>1</sup> The provisions of Art. XVII., Sec. 4, of the constitution prohibiting railroad, canal or other corporations from purchasing or controlling competing lines, is held from the context not to apply to street railway companies. *Gyger v. Railway Co.*, 136 Pa. 96; though in general the latter are deemed included in all statutory and constitutional provisions relating to railroads. *Hestonville Pass. R. R. Co. v. Philadelphia*, 89 Id. 210; *Milvale Boro. v. Railway Co.*, 131 Id. 1; *Gyger v. Railway Co.*, *supra*; *Rafferty v. Central Traction Co.*, 147 Id. 579, 589; *Cheestham v. McCormick*, 178 Id. 186. A city in granting to a street railway company privilege to occupy streets may impose conditions under which the right may be enjoyed. See, upon this general subject, *Larimer, etc., Street Railway Co. v. Larimer Railway Co.*, 137 Pa. 533; *Allegheny City v. Millville Railway Co.*, 159 Id. 411; *Homestead Railway Co. v. Railway*, 166 Id. 162; *Penna. R. R. Co. v. Montgomery Pass. Railway Co.*, 167 Id. 62; *Lehigh Coal and Navigation Co. v. Inter-County Railway Co.*, Id. 75; *Plymouth Township v. Chestnut Hill, etc., Railway*, 168 Id. 181. The general police power of the municipality over streets cannot be limited or destroyed by contract. *McKeesport v. Pass. Railway Co.*, 2 Super. Ct. R. 242. Where the municipal authorities have given their consent to the use by a street railway of a county bridge, which is a part of the public highway, the county commissioners cannot arbitrarily refuse the use of the bridge to the railway company, but they may re-

quire the company to bear the expense of strengthening the bridge, assume the cost of repairs and pay a reasonable rental. *Berks County v. Reading, etc., Co.*, 167 Pa. 102. See also upon this subject, *Larue v. Oil City Railway Co.*, 170 Id. 249; *Lawrence County v. Railway Co.*, 8 Super. Ct. R. 313. A passenger railway company is bound to keep in repair that portion of the streets occupied by its tracks, but not the remainder. *Harrisburg v. Harrisburg Pass. Railway Co.*, 1 Pears. R. 298. It is under no obligation to replace an existing pavement with one of a more expensive material. *Philadelphia v. Hestonville, etc., R. R. Co.*, 177 Pa. 371. An ordinance requiring it to sprinkle its tracks is a reasonable municipal regulation. *Chester v. Chester Traction Co.*, 5 Dist. R. 609. With regard to limit of speed of its cars no general rule can be laid down: the greatest rate of speed consistent with public safety may be maintained. *Kline v. Traction Co.*, 181 Pa. 276. As to construction of ordinances imposing upon such companies the duty of reconstructing streets and keeping the same in repair, see *Norristown v. Railway Co.*, 148 Pa. 87; *McKeesport v. Railway Co.*, 158 Id. 447; *Philadelphia v. Railway Co.*, 169 Id. 269; with reference to the relative liability of the companies and abutting owners for cost of paving streets, *Philadelphia v. Market Co.*, 154 Pa. 93; *Philadelphia v. Bowman*, 175 Id. 91; and concerning rights of abutting owners on public roads where tracks are laid, *Heilman v. Railway Co.*, 180 Id. 627.

14 May 1889.

Occupation of  
streets.

or highway, now laid out or to be laid out, and upon which no track is laid or authorized to be laid, under any existing charter, with the privilege of occupying so much of any street, highway or bridge so occupied or authorized to be occupied, as is hereinafter provided.<sup>1</sup>

Id. § 4.

Branches or  
extensions.

Resolution to  
be filed.

3. Any company incorporated under this act, desiring authority to construct any branch or extension, shall file in the office of the secretary of the commonwealth a duly certified copy of a resolution of its stockholders, setting forth in detail the route of the proposed branch or extension, which paper shall be forthwith presented to the governor for his approval; and if the governor shall be of opinion that said proposed branch or extension is within the general scope of the original charter, and does not conflict with any rights previously granted and in existence, he shall approve the same; whereupon the secretary of the commonwealth shall issue a certificate that said branch or extension has been duly authorized, and, upon the same having been duly recorded in the county or counties within which such extension lies, said company shall be vested with the right to construct and operate the same, provided it receives consent from the proper local authorities.

If governor ap-  
proves, certi-  
cate to issue.

Id. § 14.

Right of com-  
panies to use  
portions of  
tracks of other  
companies.

4. Any passenger railway company, incorporated under this act, shall have the right to use such portion of the single or double tracks of any other passenger railway company or companies, incorporated under this or any general or special act, as it may require, either to complete a circuit upon its road or upon any of its branches or extensions, or to connect its road with any and all its branches and extensions, or with the road of any other passenger railway company; *Provided*, That there shall be filed with the application for a charter, or for authority to construct any branch or extension, a certified copy of a resolution of the board of directors of the company, whose tracks are to be so used, signifying its consent to such use.

Consent of  
company whose  
tracks are  
used.

Id. § 15.

5. No street passenger railway shall be constructed by any company, incorporated under this act, within the limits

<sup>1</sup> This act, most intricately amended as here published by the Acts of May 21, 1895, P. L. 93; June 7, 1901, P. L. 514, and May 3, 1905, P. L. 368, is entitled "An act to provide for the incorporation and government of street railway companies in this commonwealth," and is the only valid general law for that purpose. *Berks Co. v. Reading, etc., Cos.*, 167 Pa. 102; the Acts of May 23, 1878, P. L. 111, and March 19, 1879, P. L. 9, having been declared unconstitutional because of their application being expressly limited to certain classes of cities. (See *Weinman v. Wilkinsburg, etc., Pass. Railway Co.*, 118 Pa. 192; *Berks and Dauphin Turnpike Co. v. Lebanon Electric Railway Co.*, 5 Pa. C. C. R. 467). Such portions of the act only are here published as concern the relations of the companies to the mu-

nicipal authorities. It has been decided that this statute does not contemplate the construction of long lines of transportation connecting widely separated cities and towns by electric railways traversing country roads. (See *Penna. R. R. v. Montgomery, etc., Pass. Railway Co.*, 167 Pa. 62; *Penna. R. R. Co. v. Street Railway Co.*, 176 Id. 559; *Penna. R. R. Co. v. Electric Railway Co.*, 179 Id. 584); that to secure the right to build roads of this character the consent of the road supervisors alone is not sufficient, but that the consent of the abutting land-owners must be obtained, and that the consent, moreover, of all the municipalities upon the proposed line is a condition precedent to the right to begin their construction, *Id.*, and see also *Wheeler v. Penna. R. R. Co.*, 194 Pa. 539.



of any city, borough, or township, without the consent of the local authorities thereof; nor shall any street passenger railway be incorporated hereunder which shall not have a continuous route from the beginning to the end, including connections made with each of its branches and extensions, or they with each other, and including the use of the track of other companies, with the consent thereof, as authorized under section fourteen as herein amended.<sup>1</sup>

<sup>14 May 1889.</sup>

Consent of local authorities to construction of passenger railways.

Route to be continuous.

6. Any company proposing to construct a street railway or any branch or extension thereof, under the provisions of this act, shall in good faith commence the construction thereof within one year after the consent of the proper local authorities of the city, borough or township within which the same is located shall have been obtained, and shall be completed within two years thereafter, unless the time shall be extended by the authority aforesaid.<sup>2</sup>

Id. § 16.

When construction of railway to begin.

To be completed within two years.

7. Any passenger railway incorporated under this act shall have, and is hereby granted, power, by its officers and servants to ascertain and define such route as they may deem expedient, over, upon, across and along any turnpike or turnpikes, or portion thereof, not already occupied, and not, however, exceeding sufficient width for two tracks to be laid down on, over, across and along such turnpike or turnpikes, or portion thereof; and thereupon, on, over, across and along such turnpike or turnpikes, or portion thereof, to lay down, construct and establish a track or tracks for its use in the transaction of its business; and thereupon to use the same in its general business;<sup>3</sup> *Provided*, That the consent of the owners of the underlying fee shall have first been obtained; *And provided further*, That before such passenger railway company shall enter upon and use any such turnpike or turnpikes, or portion thereof, in the laying of tracks and use of the same, it shall make compensation to the turnpike company for such occupation and use of said turnpike or turnpikes, or portion thereof. In case the parties cannot agree as to the amount of compensation to be paid, then the court of common pleas of the proper county, upon the petition of the corporation seeking the privilege, shall appoint five persons to view the premises, and assess

Id. § 17.

Passenger railways may be constructed along turnpikes.

Consent of owners of fee to be obtained.

Compensation to be made before entry.

Proceedings in case parties cannot agree.

Viewers to be appointed.

<sup>1</sup> Under the Act of 1889, two street railways cannot be authorized to lay their tracks upon the same highway. *Homestead Street Railway v. Pittsburgh, etc., Railway*, 166 Pa. 162. The above section neither enlarges nor diminishes the constitutional powers of the local authorities. *Allegheny City v. Millville, etc., Railway*, 159 Id. 411. Street railways must conform to the grade of the streets they occupy, but may diverge for a short distance from such streets where the topography renders it necessary. *Rahn Township v. Tamaqua, etc., Railway*, 167 Id. 84.

<sup>2</sup> This provision does not prevent the local authorities from making it a condition of their consent that the road shall be completed within a less time than two years. *Plymouth Township v. Chestnut Hill, etc., Railway*, 168 Pa. 181. See also, *Nanticoke, etc., Railway Co. v. People's, etc., Railway Co.*, 212 Id. 396.

<sup>3</sup> A street railway occupying a turnpike is not authorized to change the grade thereof, except so far as is reasonably necessary, and its line of rails must closely conform to such grade. *Berks and Dauphin Turnpike Road v. Lebanon and Myerstown Street Railway Co.*, 3 Dist. R. 55.

14 May 1889.

Damages to be assessed.

Confirmation of report.

Appeal.

Payment of award into court.

Security.

the compensation for the use of such turnpike or turnpikes, or portion thereof. The jury so appointed shall hear the testimony, and shall make a report to the court, assessing the damages which the said turnpike company shall be paid for the use of the said turnpike road, or portion thereof; and if no appeal shall be taken from the said report, the court shall, at the expiration of thirty days, confirm the said report; and the amount so fixed by the jury shall be forthwith due and payable; *Provided, however,* That either party shall have the right of appeal, within the said thirty days, from the award of the jury, as now provided by law. If the corporation seeking to use said turnpike road or portion thereof shall be dissatisfied with such award, and shall appeal therefrom, it shall nevertheless have the right to immediately use the same, upon paying the amount of such award into court, to await the determination of such appeal. If such turnpike company shall appeal from such award, the corporation seeking to use such turnpike road, or portion thereof, shall enter security in such amount as the said court shall direct and approve; whereupon, such security being entered, the company so entering the same shall have the right to the immediate use of such turnpike, turnpikes, or portions thereof.

Id. § 18.

Crossing of steam, etc., railroads at grade.

Id. § 19.

Passenger railways to have right of way in streets.

Penalty for obstructing passage of cars.

8. Any company incorporated under the provisions of this act shall have the right, in its construction, to cross at grade, diagonally or transversely, any railroad operated by steam or otherwise, now or hereafter built.<sup>1</sup>

9. Street passenger railway companies in operating their roads shall have the right to the street, and any willful obstruction to the passage of their cars on their way between the stations shall be punishable, on conviction before any magistrate by a fine of not more than ten dollars for each offense, to be recovered as fines of like amount are now by law recoverable.<sup>2</sup>

21 May 1896.

§ 8. P. L. 95.

Passenger railways may carry U. S. mails.

10. Hereafter any company now or hereafter incorporated under the provisions of an act, entitled "An act to provide for the incorporation of street railway companies in this commonwealth," approved May fourteenth, Anno Domini one thousand eight hundred and eighty-nine, in addition to conveying passengers, shall also have the power and authority to contract for and to locally gather, carry and distribute the mails of the United States.

<sup>1</sup> See *Citizens' Passenger Railway v. East Harrisburg Passenger Railway*, 161 Pa. 274; *Traction Co. v. Canal Co.*, 1 Super Ct. R. 409; *Railway Co. v. Electric Co.*, 177 Pa. 242; *Cumberland R. R. v. Harrisburg Railway*, Id. 155. The right to cross steam railways overhead is incidentally implied in this provision. *Pennsylvania R. R. Co. v. Street Railway Co.*, 176 Pa. 559; *Pennsylvania Canal Co. v. Lewisburg, etc., Railway Co.*, 7 Dist.

R. 244. At grade crossings the driver of the passenger railway car is bound to stop, look and listen before proceeding, and is not justified in relying exclusively on the signal of a flagman. *Philadelphia and Reading R. R. Co. v. Boyer*, 97 Pa. 91.

<sup>2</sup> See *Rafferty v. Central Traction Co.*, 147 Pa. 579, as to rights of abutting owners to temporary use of street.

11. Any company incorporated under the provisions of an act, entitled "An act to provide for the incorporation and government of street railways in this commonwealth," approved May fourteenth, Anno Domini one thousand eight hundred and eighty-nine, is hereby authorized and empowered, by contract with the local authorities, but not otherwise, to temporarily abandon, or to postpone the exercise of its franchise over, the whole or a portion of its route, under such terms and conditions as may be agreed upon between such company and the said local authorities, a duplicate of which contract shall be filed in the office of the secretary of the commonwealth; *Provided, however,* That nothing in this section contained, nor any contract made in pursuance thereof, shall be construed to limit or affect in any way, or impose any additional liability for the exercise of the right of a steam railroad company to lay its tracks over, upon, under and across such street or streets, or portions thereof; and in case any company, not having received consent to so temporarily abandon or postpone the exercise of its franchise over the whole or a portion of its route, fails to complete its whole route during the time limited by the local authorities, it shall be deemed to have permanently abandoned the portion not so completed; but the said company shall have authority to maintain and operate the portion so completed, provided it constitutes, either by itself or with portions of the tracks of other companies which it may be authorized to use, a complete circuit for its cars.

21 May 1895.  
§ 4.

Portions of road may be abandoned with consent of local authorities.

Contract to be filed.

Rights of steam railroads not to be affected.

When franchise to be deemed abandoned.

12. Any company which does not, within two years from the date of its incorporation, make formal application to the local authorities of the proper city, borough or township for leave to occupy and use the streets, highways, or bridges which, by its charter, it is authorized to occupy and use, and any company which heretofore has obtained or hereafter does obtain legislative or municipal consent to occupy and use any streets, highways, or bridges, and does not forthwith diligently proceed to occupy and use the same, and does not begin work within two years after such consent shall be obtained, and complete its road, or a portion thereof, as herein provided, within the time limited by such consent, or any extension thereof, shall be deemed to have abandoned the right to occupy and use such streets, highways, and bridges not so used; and the same may be occupied and used by any other company, duly chartered and obtaining consent so to do: *Provided, however,* That no company shall be privileged to use any street temporarily abandoned, or the use of which is temporarily postponed, in accordance with the provisions of this act or of any other act of the general assembly.

7 June 1901.  
§ 6. P. L. 522.

Application to local authorities to use streets to be made within two years.

Work to begin within same period.

In default, right to be deemed abandoned.

13. Any railway company, incorporated under this act, shall have the right and power, if it deem it to be necessary in order to make connections with any portion of its track, whether main line, branches or extensions, to acquire prop-

Id. § 7.

Companies may acquire lands for track connections.

7 June 1901. erty, either by purchase or otherwise; and after acquiring such property, shall have the right to lay its tracks upon the same as if it were a public highway, and to connect the track, so laid upon the property so acquired, with any other portions of its track laid upon public highways adjacent thereto.

Id. § 8.

Passenger rail-  
way lines not  
to connect  
with railroads.

14. No street passenger railway company, heretofore or hereafter incorporated under the act hereby amended, shall be authorized or permitted to connect its tracks with the tracks of any railroad company, incorporated under any law of this state for the transportation of both passengers and freight, nor shall the interchange of cars and continuous movement thereof between and over the tracks of such street passenger railway company and such railroad company be authorized or permitted.

3 May 1906.  
§ 1 P. L. 379.

Removal of  
street railway  
tracks by mu-  
nicipal au-  
thorities.

15. In case the local authorities of any city, borough, or township shall deem it necessary for the public benefit and convenience to secure the removal of any street railway tracks already laid, or prevent the laying of such tracks already authorized to be laid, or to change the route of any street railway on any street or streets, or portion of a street or streets, within its corporate limits, and such purpose or purposes can be accomplished by agreement with the street passenger railway company or motor-power company owning, leasing or operating such tracks, it shall and may be lawful for the said parties to enter into a contract, for a period not exceeding fifty years, for such considerations and upon such terms and conditions, and containing such stipulations, reservations and covenants as may be agreed upon between the respective parties thereto; and such contract may include a covenant providing that, during the continuance thereof, municipal consent shall not be granted to any other company to use or occupy the street, streets, or portions of a street or streets, covered by such contract, for street railway or passenger transportation purposes; which covenant shall be enforceable by bill in equity against such city, borough, or township, in case of attempted breach thereof; and such contract may also provide for the laying or relaying of such tracks, upon such terms and under such contingencies and conditions as may be agreed upon. When such contract shall have been made, it shall form a part of the charter of the company, with like force and effect as to all its terms, conditions, stipulations, restrictions, covenants, and provisions as to change of routes as if the same formed a part of the original charter of such company; and no removal of tracks already laid, or postponement of or delay in the time of beginning or completing the work of laying tracks already authorized to be laid, and no change of route therein provided for, shall operate or be construed to deprive or divest any such company, entering into such contract, of any of the rights, franchises or privileges possessed by it at the time of

Agreement  
with com-  
panies.

Contract to be  
entered into.

Stipulation as  
to non-occup-  
ation of streets  
by other com-  
panies.

To be enforce-  
able in equity.

Contract to  
form part of  
charter of  
company.

Right of con-  
tracting com-  
pany not to  
be forfeited.

entering into such contract, so as to operate in favor of any company subsequently formed and seeking to occupy, for street railway purposes, the street, streets, or portions of a street or streets, covered by such contract; *Provided, however,* That nothing in this act contained, nor any contract made in pursuance thereof, shall be construed to limit or affect in any way, or impose any additional liability for the exercise of, the right of a steam railroad company to lay its tracks over, upon, under, and across such street or streets, or portions thereof.

<sup>3</sup> May 1905.  
Rights of  
steam railroads  
not to be  
affected.

16. All laws and portions of laws, whether special or general, in so far as the same may be inconsistent herewith, are hereby repealed.<sup>1</sup>

Id. § 2.  
Repeal.

<sup>1</sup> Section 20 of the Act of May 14, 1889, P. L. 217, provides that existing passenger railway companies incorporated under previous acts may accept its provisions, to which they shall thereafter become subject. Upon the acceptance being filed in the office of the secretary of the commonwealth, new letters-patent are to be issued to the corporation under its original name. This section was intended to afford a way for companies organized under laws that were invalid to secure a lawful corporate character, and also to

open a way for companies legally organized under special acts of assembly to surrender their special privileges and obtain those provided by the statute. *Berks Co. v. Reading, etc., Cos.*, 167 Pa. 102. The Act of June 7, 1901, P. L. 523, and its supplement of June 19, 1901, P. L. 572, provide for the incorporation and government of passenger railways, either elevated or underground, or partly elevated and partly underground, with surface rights. See also the qualifying Act of June 20, 1901, P. L. 577.

## Police.

### [See FINES AND PENALTIES—MAYOR—RAILROADS.]

#### I. APPOINTMENT, POWERS AND DUTIES OF POLICEMEN.

1. Councils to fix number, rank and compensation of police force. Policemen not to take rewards. Exception. Mayor to appoint, suspend and dismiss policemen. Substitutes. Compensation. Chief and subordinates. Deposition of officers.

2. Powers and duties of policemen. Service of process. Fees therefor. Policemen to obey orders of mayor. Removal.

3. Night watchmen may be appointed by court of quarter sessions on application of owners or occupiers of real estate. Powers of such watchmen. Not to serve process. Appointments to be made by department of public safety in certain cities.

4. Policemen to receive fixed salary. Not to accept other compensation, except public rewards and mileage.

5. Constables employed as policemen not to accept fees, except public rewards and mileage.

6. Violation of act to be misdemeanor. Penalty.

#### II. POLICE PENSION FUND.

7. Boroughs and cities may establish a police pension fund. How fund to be maintained and applied.

8. Minimum period of service of police to entitle to retirement. Final discharge.

9. Payments not to be a charge on any other fund. Basis of apportionment of pension.

10. Gifts, etc., may be taken in trust for pension fund. How trust fund to be managed and disposed of.

11. Termination of right to participate in fund.

#### I. Appointment, Powers and Duties of Policemen.

1. The councils shall fix by ordinance the number, rank and compensation<sup>1</sup> of the members of the city police force, and prescribe all necessary rules and regulations for the organization and government thereof, in accordance with this act; and it shall be a misdemeanor in office for any policeman

<sup>23</sup> May 1889.  
Art. VII.  
§ 4. P. L. 299.

Councils to fix  
number, rank  
and compensation  
of police  
force.

<sup>1</sup> As to payment of policemen's salary by mandamus proceeding, after judgment, see *Commonwealth v. Hinkson*, 161 Pa. 266; and withholding of salary for absence from duty, *Wilkesbarre v. Meyers*, 113 Id. 395; *Coe v. Oil City*, 157 Id. 613; *Williams v. Harrisburg*, 4 Dauph. Co. R.

47. Policemen hold their appointment subject to the rules of the police department. *Craighead v. City*, 5 Dist. R. 310. Policemen appearing in answer to a court subpoena are entitled to witness fees. *Davis v. Schuylkill County*, 27 Pa. C. C. R. 177.

28 May 1880.  
Art. VII.

Policemen not  
to take re-  
wards.

Exception.

Mayor to ap-  
point, suspend  
and dismiss  
policemen.

Substitutes.

Compensation.

Chief and sub-  
ordinates.

Deposition  
of officers.

Id. § 5.

Powers and  
duties of  
policemen.

Service of  
process.

Fees therefor.

Policemen to  
obey orders  
of mayor.

to ask, demand or receive any other compensation or reward, whatsoever, for his official services, to be followed by dismissal from office; *Provided*, That members of the police force may receive and retain rewards offered for the arrest of persons accused of crimes committed outside of the city in which they hold office. The mayor shall nominate and, by and with the advice and consent of the select council, appoint said policemen, and at his pleasure dismiss any or all of them,<sup>1</sup> and, in like manner all vacancies shall be filled; and the mayor may, in his discretion, suspend any policeman for a period not exceeding thirty days without pay. In case of the temporary absence of any policeman from duty, from sickness or otherwise, the mayor may appoint a substitute, to serve for such period as he may designate, not exceeding ten days, for such compensation as may be fixed by councils. He shall designate from the force the chief and other subordinate officers, who shall be subject to the direction and control of the mayor, and shall serve as such officers until their successors be duly designated, and they may be deposed from such offices at any time by the mayor who designated them or by his successor in office, and other members of the force designated in their places.<sup>2</sup>

2. Policemen shall be ex-officio constables of the city, and shall and may without warrant and upon view arrest and commit for hearing any and all persons guilty of breach of the peace, vagrancy, riotous or disorderly conduct, or drunkenness, or who may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens,<sup>3</sup> or violating any of the ordinances of said city, for the violation of which a fine or penalty is imposed. They shall have authority to serve and execute all criminal process, or process for the violation of the city ordinances which may be issued by the mayor or any alderman, and shall charge the same fees and costs as pertain by law to the constables of the city for similar services;<sup>4</sup> but the said fees and costs shall be received and collected by the mayor, and by him paid into the city treasury monthly, as hereinbefore provided. Policemen shall obey the orders of the mayor, and make report to him, which report shall be laid by him be-

<sup>1</sup> See *Saul v. Scranton*, 9 Dist. R. 156; *Commonwealth v. Black*, 201 Pa. 433.

<sup>2</sup> This and the succeeding section amended as here published by Act of May 18, 1901, §§ 20, 21, P. L. 237-238.

<sup>3</sup> The general authority of the police to make arrests for breaches of the peace committed in their presence here conferred is but confirmatory of that devolving by the common law upon all peace officers. As to method of arrest by policemen, see *Flinn v. Graham*, 3 Pitts. R. 195; *Sharp v. Wilkesbarre*, 1 Kulp 73; and as to their right to use firearms, *Commonwealth v. Greer*, 20 Pa. C. C. R. 535. Where an arrest is made without warrant, upon suspicion, it is the duty of

the officer to take the accused before a magistrate for formal accusation and hearing before locking him up. *Burk v. Howley*, 179 Pa. 539. Under the Act of March 29, 1869, P. L. 22, for the punishment of cruelty to animals, as amended by the Acts of June 9 and June 20, 1891, P. L. 260, 378, policemen and constables have the right to arrest upon view offenders against that statute, and by the Act of June 22, 1897, P. L. 182, keepers of jails, lock-ups and station houses are required to receive such offenders into custody.

<sup>4</sup> For the fees receivable by constables, see that title.

fore councils whenever required. The mayor shall exercise a <sup>23 May 1889.</sup> constant supervision and control over their conduct,<sup>1</sup> and hear and determine all complaints against them in the discharge of their duties,<sup>2</sup> and he shall be required to remove from office any member or officer of the police force, upon a resolution to that effect passed by two-thirds of both branches of councils.

3. It shall be lawful for any number of persons owning or occupying real estate in any city, borough, or township of this commonwealth, upon application to, and with the approval of the court of quarter sessions of the proper county, to employ a night watchman or night watchmen for the purpose of protecting their premises and property in the night time, and all persons so appointed, with the approval aforesaid, as night watchmen, shall have, exercise and enjoy all the rights, powers and privileges now vested by law in constables or police officers duly elected or appointed in said cities or boroughs; *Provided, however,* That such night watchmen shall not exercise the power of serving subpoenas, or any civil or other process; *Provided,* That in any city having a department of public safety all such applications shall be made to, and granted by, the director of said department, under such rules and regulations as may be adopted by said department.<sup>3</sup>

Removal.

<sup>26 June 1895.</sup>  
§ 1. P. L. 833.

Night watchmen may be appointed by court of quarter sessions on application of owners or occupiers of real estate.

Powers of such watchmen.

Not to serve process.

Appointments to be made by department of public safety in certain cities.

<sup>1</sup> Police officers, though appointed to perform duties of a public nature, cannot be regarded as the servants of a municipal corporation, and the latter is not liable for their unlawful or negligent acts. *Elliott v. Philadelphia*, 75 Pa. 347; *Norristown v. Fitzpatrick*, 94 Id. 121. Nor for those of members of the fire department. *Freeman v. Philadelphia*, 7 W. N. C. 45; *Knight v. Philadelphia*, 15 Id. 307; *Lilly v. Scranton*, 18 Pa. C. C. R. 433. On the other hand, a city engaging in the business of furnishing water, gas or electric light to its citizens is liable for the negligent acts of the employees of such departments. *Philadelphia v. Gilmartin*, 71 Pa. 140; *Kibele v. Philadelphia*, 105 Id. 41; *Bodge v. Philadelphia*, 167. Id. 492.

<sup>2</sup> The mayor and not councils has the right to hear and determine in the first instance charges of misconduct against policemen. *Nichols v. Weiss*, 9 Kulp 548.

<sup>3</sup> The Act of May 23, 1887, P. L. 173, regulating the appointment of private detectives for hire or reward, provides that upon payment of a fee of twenty-five dollars for the use of the county, giving bond in \$2,000 to the commonwealth, and furnishing proof of competency and integrity, such detectives may be licensed for three years by the court of quarter sessions, the license being revocable at any time for cause shown. Their powers extend to the service of criminal process generally. As to construction of this act (amended by Act of May 31, 1901, P. L. 355) in reference to the prerequisites for appointment, see *Burnett's Application*, 17 Pa. C. C. R. 394; *Smith's Petition*, 5 Dist. R. 465, and as to the scope of the act as amended relative to the classes of detectives to which it is intended to apply, see the comments of the governor

appended to the approval of the amending act. The Act of May 5, 1897, P. L. 39, prohibits the false personation of a detective or any elective or appointed officer, and prescribes the penalty therefor. The county detective is appointed by the district attorney, with the approval of the court of quarter sessions, under the Act of May 19, 1874, P. L. 218, and supplement of April 13, 1876, P. L. 28. He is constituted a general police officer and has all the powers of a constable in reference to criminal procedure. His compensation is fixed by the court, except in counties of over 150,000 population, where the office is a salaried one. By the Act of April 26, 1883, P. L. 14, agricultural and horticultural societies are authorized to appoint special policemen to serve during the exhibitions. As to their powers to make arrests, see *Commonwealth v. Jayne*, 11 Super. Ct. R. 459. By the Act of June 7, 1901, P. L. 508, the mayor is authorized to appoint and commission private policemen for passenger railways, on application of the companies by whom they are to be compensated. The Acts of February 27, 1865, P. L. 225, and April 11, 1866, P. L. 99, authorize the commissioning by the governor of "railway police," and "coal and iron police," for special duty upon railroads or at collieries, furnaces and rolling mills, at the expense of their employers. Their commissions are to be recorded in the county recorder's office, and they are invested with the powers of policemen of the city of Philadelphia, and may arrest without warrant for breaches of the peace committed in their presence. See *Weiler v. Pennsylvania R. R. Company*, 12 Pitts. Leg. Jour. 347; *Railroad Police*, 9 Dist. R. 36.

The Act of May 2, 1905, P. L. 361,

14 July 1897.  
§ 1. P. L. 286.

Policemen to  
receive fixed  
salary.

Not to accept  
other com-  
pensation.

Except public  
rewards and  
mileage.

Id. § 2.

Constables  
employed as  
policemen not  
to accept  
fees.

Except public  
rewards  
and mileage.

Id. § 3.

Violation of  
act to be mis-  
demeanor.

Penalty.

4. From and after the passage of this act all municipalities or corporations employing policemen within the commonwealth of Pennsylvania shall pay to all such policemen a fixed or stipulated salary; and hereafter it shall not be lawful for any such policeman to charge or accept any fee or other compensation, in addition to his salary, for any service rendered or performed by him of any kind or nature whatsoever, pertaining to his office or duties as a policeman except public rewards and the legal mileage allowed for traveling expenses.<sup>1</sup>

5. From and after the passage of this act it shall not be lawful for any high, ward, township or other constable who is at the same time employed as a policeman in any city, borough or other part of this commonwealth to charge or accept any fee or other compensation in addition to the salary paid to him as a policeman, for any service rendered or performed by him pertaining to his office or duties, either as a policeman or as such high, ward, or other constable, except public rewards and the legal mileage allowed to constables for traveling expenses.<sup>2</sup>

6. Any policeman or constable employed as a policeman as aforesaid violating any of the provisions of the several sections of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding fifty dollars and costs, or undergo imprisonment in the jail of the proper county not exceeding thirty days, or both, at the discretion of the court.

## II. Police Pension Fund.

24 May 1893.  
§ 1. P. L. 129.

Boroughs and  
cities may es-  
tablish a police  
pension fund.

How fund to  
be maintained  
and applied.

7. The several boroughs and cities of this commonwealth, incorporated by general or special laws, shall have power to establish by ordinance a police pension fund,<sup>3</sup> to be maintained by an equal and proportionate monthly charge against each member of the police force, which shall not exceed annually three per centum of the pay of such member, which fund shall be under the direction of councils or committee, or the direction of such officers of the city or borough as may be designated by councils, and applied under such regulations as councils may by ordinance prescribe, for the benefit of such

creates the department of state police, the superintendent of which is to be appointed by the governor for the term of four years. The superintendent is to appoint the members of the force, consisting of four platoons or companies, to be uniformed, armed and equipped by the state. They are authorized to make arrests on view for violations of law, to act as forest, fire, game and fish wardens, and in general are to have the powers and prerogatives conferred by law upon the police force in cities of the first class and constables; aiding the local authorities in detecting crime and apprehending

criminals and preserving law and order throughout the state. The design of their appointment, by the terms of the act, is to supersede, as far as possible, the local corporation police.

<sup>1</sup> See *Weaver v. Schuylkill County*, 28 Pa. C. C. R. 507; 9 Dist. R. 487; *Commonwealth v. Jones*, 14 Id. 350.

<sup>2</sup> See *McAllister v. Armstrong County*, 20 Pa. C. C. R. 201.

<sup>3</sup> See *Commonwealth v. Walton*, 182 Pa. 373, that reasonable appropriations by councils to a police pension fund are valid as the devotion of public money to a strictly municipal purpose.



members of the police force as shall receive honorable discharge therefrom by reason of age or disability, and the families of such as may be injured or killed in the service; but such allowances as shall be made to those who are retired by reason of the disabilities of age shall be in conformity with a uniform scale. 24 May 1898.

8. Such ordinance may prescribe a minimum period of continuous service, not less than twenty years, after which members of the force may be retired from active duty, and such members as [are] retired shall be subject to service from time to time as a police reserve until unfitted for such service, when they may be finally discharged by reason of age or disability. Minimum period of service of police to entitle to retirement.  
Final discharge.

9. Payments made under the provisions of this section shall not be a charge on any other fund in the treasury of the city or borough, or under its control, save the police pension fund herein provided for. The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the member at the date of death, honorable discharge or retirement, and shall not in any case exceed in any year one-half the annual pay of such member computed at such monthly rate. Payments not to be a charge on any other fund.  
Basis of apportionment of pension.

10. It shall be competent for any such city or borough to take by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of such pension fund, and the care, management, investment and disposal of such trust funds or property shall be vested in such officer or officers of such city or borough for the time being, as the said city or borough may designate, and such care, management and disposal shall likewise be directed by ordinance, and the said trust funds shall be governed thereby, subject to such directions not inconsistent therewith as the donors of such funds and property may prescribe. Id. § 2.  
Gifts, etc., may be taken in trust for pension fund.  
How trust fund to be managed and disposed of.

11. Whenever any person shall become entitled to receive a benefit from the police pension fund, and shall have been admitted to participate therein, he shall not be deprived of his right to an equal and proportionate participation therein upon the basis upon which he first became entitled thereto, save from one or more of the following causes, that is to say, conviction of a crime or misdemeanor, becoming an habitual drunkard, becoming a non-resident of the state, or failing to comply with some general regulation relating to the management of said fund which may be made by ordinance, and which may provide that a failure to comply therewith shall terminate the right to participate in the pension fund, after such due notice and hearing as shall be prescribed by ordinance. Id. § 3.  
Termination of right to participate in fund.

**Poor.**

1. Additional corporate powers of cities of the third class. Cities authorized to create poor department. Department to be subject to control of councils. Annual tax

to be levied. Necessary offices may be created.

2. Act not to repeal local laws.

3. Overseers to furnish relief in certain cases.

18 May 1889.  
§ 1. P. L. 192.

Additional corporate powers of cities of the third class.

Cities authorized to create poor department.

Department to be subject to control of councils.

Annual tax to be levied.

Necessary offices may be created.

Id. § 2.

Act not to repeal local laws.

14 June 1901.  
§ 1. P. L. 561.

Overseers to furnish relief in certain cases.

1. Cities of the third class, and other cities containing less than ten thousand inhabitants coming within the provisions of an act of assembly, entitled "An act dividing the cities of this state into three classes, regulating the passage of ordinances, providing for contracts for supplies and work for said cities, authorizing the increase of indebtedness and the creation of a sinking fund to redeem the same, defining and punishing certain offenses in all of said cities, and providing for the incorporation and government of cities of the third class," approved the twenty-third day of May, Anno Domini one thousand eight hundred and seventy-four, in addition to the other powers conferred in said act, are authorized and empowered to enact ordinances for the following purposes:

First. To create a department for the purpose of administering charity and for the support of the poor, and such department shall have the care, management, administration and supervision of the charities, almshouses, poorhouses and the relief of the poor of said city, subject, however, to the control of the councils.

Second. To levy a tax annually, not exceeding ten mills on the dollar, on all persons and property taxable by each of said cities for city purposes, for the support of said department.

Third. To create any office which may be deemed necessary by any such city for the proper government, support and management of said department, to regulate and prescribe the powers, duties and compensation of all such officers, and to require of each of them bonds, with sufficient security, conditioned for the faithful performance of his duties.

2. This act shall not repeal any special or local law relating to public charities in the poor affairs in any of the cities aforesaid.<sup>1</sup>

3. The overseers of the poor, director or directors of the poor, and all other officers or boards having the charge or control of the poor, in the several cities of the third class of this commonwealth, are hereby authorized to furnish relief to all such persons as are needing the same, in all cases where any such officer or authorities are satisfied, upon investigation, that such relief is necessary. The authority hereby given shall not prevent the taking out of orders of relief in cases where the proper poor authorities have refused to act.<sup>2</sup>

<sup>1</sup> By the Act of May 25, 1897, P. L. 83. counties and municipalities which now have or may hereafter erect institutions for the care and treatment of their indigent insane, with the approval of the board of public charities, are to be entitled to receive from the state one dollar and fifty cents per week for each person maintained therein. The act in the text does not seem to contemplate provision by cities for their insane population,

which, together with the care and support of the poor is, in general, wisely committed, by existing laws, to the jurisdiction of the county governments.

<sup>2</sup> The recent Act of April 6, 1905, P. L. 112, regulates the matters of settlements in poor districts and orders for removal, and authorizes the courts of quarter sessions to compel certain relatives of indigent persons to contribute to their support.

## Posters.

1. Defacing walls, fences, etc., by posting bills, etc., prohibited. Penalty.  
 2. Mutilation or destruction of show bills, posters, etc., prohibited. Penalty. When provisions of act not to apply.

3. Defacing public property by posters, prohibited. Legal notices, etc., excepted.  
 4. Placing posters, etc., on private property, prohibited. Legal notices, etc., excepted.  
 5. Penalty. Removal of poster.

1. If any person or persons shall, without the consent of the owner or owners thereof, wilfully daub, paint advertisements or post placards upon, or otherwise deface the walls of any building or buildings, house or houses, or the fences around the yard or yards connected therewith, or any fences surrounding or inclosing any vacant lot or lots, farm or farms, or shall cause the same to be done by others; or if any person or persons shall, without the consent of the owner or owners thereof, daub, paint advertisements or post placards upon, or otherwise deface any tree or trees, or shall cause the same to be done by others, such offender or offenders shall be guilty of a misdemeanor, and, upon conviction, be sentenced to pay a fine not exceeding twenty-five dollars, and undergo an imprisonment not exceeding thirty days, or both, or either, at the discretion of the court.

8 June 1881.  
 § 1. P. L. 88.

Defacing walls, fences, etc., by posting bills, etc., prohibited.

Penalty.

2. Any person found guilty of wilfully and maliciously mutilating, destroying, tearing down or removing any show bill, placard, programme, poster or other advertisement posted upon any rail, fence, bill board or other structure in or located upon any public highway in this commonwealth, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than one hundred dollars; *Provided*, The penalties of this act shall not apply to those tearing down or removing show bills, play bills, posters, programmes, after the performance therein advertised, or to the owner or tenant of any building, fence or other structure when the same has been posted or put up without his or their consent, except such owner or tenant be the bill poster putting up or employed to put up the same.

6 May 1887.  
 § 1. P. L. 87.

Mutilation or destruction of show bills, posters, etc., prohibited.

Penalty.

When provisions of act not to apply.

3. No person shall paste, paint, brand or stamp, or in any manner whatsoever place upon or attach to any building, fence, bridge, gate, outbuilding or other object, upon the grounds of any charitable, educational or penal institutions of the state of Pennsylvania, or upon any property belonging to the state of Pennsylvania, or to any county, township, borough or city therein, any written, printed, painted or other advertisement, bill, notice, sign or poster; *Provided*, That nothing herein shall be so construed as to prevent the posting of any notice required by law or order of court to be posted, nor to prevent the posting or placing of any notice particularly concerning or pertaining to the grounds or premises upon which the same is so posted or placed.

10 March 1908.  
 § 1. P. L. 20.

Defacing public property by posters, prohibited.

Legal notices, etc., excepted.

Id. § 2.

4. No person shall paste, paint, brand, stamp, or in any manner whatsoever place upon or attach to any building, fence, bridge, gate, outbuilding, or property of another,

Placing posters, etc., on private property, prohibited.

10 March 1903 whether within or without the limits of a highway, any written, printed, painted, or other advertisement, bill, notice, sign, card or poster, without first having obtained the written consent of the owner, or tenant lawfully in possession or occupancy thereof; *Provided*, That nothing herein shall be so construed as to prevent the posting of any notice required by law or order of court to be posted, nor to prevent the posting or placing of any notice particularly concerning or pertaining to the grounds or premises upon which the same is so posted or placed.

Legal notices,  
etc., excepted.

Id. § 8.

Penalty.

Removal of  
poster.

5. Every person violating the provisions of this act shall be liable to a penalty of not less than five dollars nor more than twenty dollars, to be recovered before any magistrate or justice of the peace, as fines and penalties are by law recoverable; and such written, printed, painted, or other advertisement, bill, notice, sign, card, or poster is hereby declared to be a public nuisance, and may be removed and abated as such.

## Professional Thieves.

1. Arrest and summary conviction of professional thieves. Commitment. Security for good behavior. Appeal to court of quarter sessions.

7 June 1901.  
§ 1. P. L. 492.

Arrest and  
summary con-  
viction of pro-  
fessional  
thieves.

Commitment.

Security for  
good behavior.

Appeal to  
court of  
quarter ses-  
sions.

1. If any person shall be charged, on oath or affirmation, before a magistrate, justice of the peace, alderman, mayor or burgess in this commonwealth, with being a professional thief, burglar or pickpocket; and who shall have been arrested by any police officer, detective, constable, sworn peace officer, or watchman at any steamboat landing, railroad depot or station, ferryhouse, on the platform or inside of any street passenger railway car, in any church or the vestibule or corridor thereof, in any building occupied as a banking institution, trust company, saving fund or broker's office, elevators used to carry passengers, in any park or place of public amusement or recreation, or the approaches thereto, auction stores or crowded thoroughfares, public or private, in this commonwealth; and if it shall be proven to the satisfaction of the said magistrate, justice of the peace, alderman, mayor or burgess, by sufficient testimony, that he or she was frequenting or attending such place or places for an unlawful purpose, he or she shall be committed to the county jail or prison for a term not exceeding ninety days, at labor, or, in the discretion of said mayor, magistrate, justice of the peace, alderman or burgess, be required to enter security for his or her good behavior for a period not exceeding one year; *Provided, however*, That the defendant or defendants may, within five days after such conviction, appeal to the court of quarter sessions of the county in which such justice of the peace, alderman, mayor, or burgess shall reside, upon allowance of said court of quarter sessions or any judge thereof, upon cause shown.

## Public Libraries.

1. Cities may take grants and donations to establish free libraries, and make appropriations therefor.

2. Establishment of libraries to be submitted to popular vote, on petition. Rate of library tax.

3. Levy of library tax.

4. Creation of bonded indebtedness.

5. Appointment of board of library directors. Terms. Organization.

6. Library to be free to public. Rules and regulations. Extension of library privileges.

7. Annual report of directors. Contents of report.

8. Councils to impose penalties for injury to library, etc.

9. Donations may be accepted.

10. Application of act.

11. School directors may establish free public libraries.

12. School-houses may be used for depositories of public libraries, or buildings may be purchased or erected. Cost thereof to be first fully provided for.

13. Levy of tax for purchase and maintenance of library.

14. Powers and duties of trustees of library. Composition of board of trustees. Terms of members of board. Vacancies, how filled. Trustees to report to school board.

15. Libraries to be under supervision of state librarian.

16. School boards may receive gifts of lands, etc., for endowment of libraries, and sue for recovery thereof. Application of act.

17. School boards may extend aid to free public libraries already established, and levy taxes for such purpose.

18. Library managers to make annual report to board. Annual account to be audited.

19. Free public libraries in cities of third class. Appropriations therefor.

20. Dedication of real estate by city.

21. Maintenance of library.

22. Corporate management. Powers of corporation. Salaries of officers.

23. Annual report of managers. Audit of accounts.

24. Validation of prior agreements, etc.

1. It shall be competent for any incorporated city within this commonwealth, and the same is hereby empowered to take and hold any grant or donation of money, books and manuscripts, or property, real or personal, for the purpose of establishing a free library within the limits of such corporation, and to make provision, by annual appropriation, for the maintenance of such free library.

23 May 1887.  
§ 1. P. L. 179.

Cities may take grants and donations to establish free libraries, and make appropriations therefor.

2. Councils may submit to the qualified voters of the cities of the second and third class and boroughs, at the election to be held on the third Tuesday of February in each year, the question of the establishment and maintenance of a public library in such municipality, and must submit the question, if petitioned for by at least three per centum of the voters registered at the last annual election. At said first mentioned election the question of establishing said public library and the rate of the annual tax, not exceeding two mills on the dollar on all the taxable property in the municipality, shall be submitted and voted upon. A majority of the votes cast on the question shall decide.

17 June 1901.  
§ 1. P. L. 599.

Establishment of libraries to be submitted to popular vote, on petition.

Rate of library tax.

3. The rate of tax so voted shall be an annual tax rate until another popular vote is taken changing the same. The tax shall be levied and collected in like manner with the other taxes in the municipality, and shall be in addition to all other taxes, and shall be used for no other purpose than that of establishing and maintaining a public library. The money so raised shall be under the exclusive control of a board of library directors appointed as hereinafter provided.

Id. § 2.

Levy of library tax.

4. If five per centum of the registered voters of any municipality shall petition councils to submit the question of creating a bonded indebtedness, for purchasing ground and erecting buildings for public library purposes, councils must

Id. § 3.

Creation of bonded indebtedness.

17 June 1901. submit the question to be voted upon at the next annual election in the same manner as hereinbefore provided.

Id. § 4.

Appointment  
of board of li-  
brary directors.

Terms.

Organization.

Id. § 5.

Library to be  
free to public.

Rules and  
regulations.

Extension of  
library privi-  
leges.

Id. § 6.

Annual report  
of directors.

Contents of  
report.

Id. § 7.

Councils to im-  
pose penalties  
for injury to  
library, etc.

Id. § 8.

Donations may  
be accepted.

5. The affairs of a public library shall be under the direction and control of a board of directors, of not less than five or more than nine, as determined by councils. They shall be appointed from the citizens at large by the mayor or burgess and confirmed by councils. The first appointees shall be appointed, one-third for one year, one-third for two years, and one-third for three years. The mayor and superintendent of schools of the municipality shall be ex-officio members of the board. The terms of office of the members of the board appointed by the mayor or burgess shall be for three years. The board shall be organized by the election of a president and treasurer from its membership, and such other officers and agents as the board may deem necessary. The treasurer shall be required to give bonds.

6. Every library or reading room established under this act shall be forever free to the use of the inhabitants of said municipality or borough where located, always subject to such reasonable rules and regulations as the board, having the library in charge, may adopt in order to render the use of said library and reading room of the greatest benefit to the greatest number, and said board may exclude from the use of said library and reading room any and all persons who shall willfully violate such rules. And said board may extend the privileges and use of such library and reading room to persons residing outside of such municipality or borough, upon such terms and conditions as said board may, from time to time, by its regulations prescribe.

7. Said board shall make an annual report to the councils of such municipality or borough, covering the fiscal year of such municipality or borough; stating the condition of the library and of the branch or branches, if any; the various sums of money received from the library tax and from other sources; and how such moneys have been expended, and for what purposes; the number of books and periodicals on hand; the number added by purchase, gift or otherwise during the year; the number of registered readers, the number of books loaned out, and the general character and kind of such books; with such other statistics, information and suggestions as they may deem of general interest.

8. The councils of said municipality and boroughs have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury to such library, or to the grounds or other property thereof, or for injuring or failing to return, at the time and in the manner specified in the rules of said library, any books belonging to the same.

9. Any person desiring to make donations of books, money, personal property or real estate for the benefit of such library, shall have the right to vest the title to such books,

money or real estate, so donated, in the board duly constituted for the management of such library; to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise or bequest of such property, and as to such property the board shall be held and considered to be trustees. 17 June 1901.

10. This act shall not apply to any city or borough wherein a free library has been heretofore established, nor shall it in any way affect the provisions of the act of assembly, approved June twenty-eighth, one thousand eight hundred and ninety-five, entitled "An act for the establishment of free public libraries in the several school districts of the commonwealth, except in cities of the first and second class," or the various supplements thereto; nor shall it in any way affect the provisions of the act of assembly approved May twenty-second, one thousand nine hundred and one, entitled "An act to authorize the co-operation of cities of the third class, school districts thereof and incorporated library associations therein, for the erection and maintenance of free public libraries." Id. § 2.  
Application  
of act.

11. For the purpose of securing a system of free, non-sectarian public libraries on a substantial and permanent basis throughout the commonwealth, authority is hereby given to the board of school directors, or to any board or organization having control of the common schools in each and every common school district, except in cities of the first and second class, whenever the same may be decided upon by a majority vote of all the members thereof, to provide a place for and establish and maintain such public library for the general use of the residents in the district, subject to the ensuing provisions of this act. 28 June 1896.  
§ 1. P. L. 411.  
School directors may establish free public libraries.

12. Said board may set aside the whole or a portion of any school house now or hereafter erected within the district for the uses and purposes of such library, having due regard to the convenience of the citizens, and may make any changes, repairs or additions that may be necessary to properly carry out the objects of this act, or at its option may lease, purchase or erect a suitable building in some convenient location for the use, storage and accommodation of such library; but no land or structure shall be purchased or building commenced until the cost thereof has been fully provided for under the laws regulating the erection of new school houses within the district. Id. § 2.  
School houses may be used for depositories of libraries.  
Or buildings may be purchased or erected.  
Cost thereof to be first fully provided for.

13. It shall be lawful for said board to levy a tax for the purchase, improvement and maintenance of said library not exceeding one mill in any one year, which tax shall be included in the tax levy made for school purposes, upon the same subjects of taxation, and shall be collected at the same time and in the same manner.<sup>1</sup> Id. § 3.  
Levy of tax for purchase and maintenance of library.

14. The public library of each district shall be under the general management of nine trustees acting as the agents and Id. § 4.  
Powers and duties of trustees of library.

<sup>1</sup> The section amended as above by Act of April 20, 1905, P. L. 231.

28 June 1895. appointees of the school board, who shall approve all plans for its storage and accommodation, purchase and take charge of all books, maps, documents, relics and literary, historical or other contributions, appoint all employes and make all regulations and do all things necessary to its government, preservation and maintenance, subject to the approval of the board. The president and treasurer of the board and the superintendent of the schools of the district (or, if there is no such officer, the secretary of the board), shall be ex-officio members of the board of trustees. The other six members shall be elected by the school board, two each for one, two and three years; and annually thereafter two members shall be chosen by said board for the term of three years. Each trustee shall serve until his successor is elected, and in case of a vacancy, it shall be filled by the school board for the unexpired term. The trustees shall make a report to the school board once each year, and oftener if called upon, of such subjects and in such manner as may be required by said board.

Composition  
of board of  
trustees.

Terms of mem-  
bers of board.

Vacancies, how  
filled.

Trustees to  
report to  
school board.

Id. § 5.

Libraries to be  
under super-  
vision of state  
librarian.

15. All public libraries established as above shall be under the general supervision and subject to the inspection of the state librarian, who is hereby empowered to require reports thereof to be made by the trustees at such time and in such manner as he may see proper.

Id. § 6.

School boards  
may receive  
gifts of lands,  
etc., for en-  
dowment of  
libraries.

And sue for  
recovery  
thereof.

Application  
of act.

16. It shall be lawful for the school board of any common school district, and their successors in office, to receive and hold, free from all collateral inheritance tax, any devise, bequest, grant, endowment, gift, donation or contribution of property, real, personal or mixed, which shall be made for the establishment, improvement or maintenance of a public library as herein provided for, and the same to apply to the purpose for which made or given, and said board or their successors in office are hereby authorized to bring suit and do all necessary acts for the recovery, holding, use and application thereof; *Provided*, That this act shall not apply to cities of the first class; *Provided further*, That in cities which have established a board of trustees for the management of a free library established by said municipality, any land or buildings appropriated to free library purposes under the operation of this bill, shall be under the control of said board of trustees.<sup>1</sup>

30 March 1897  
§ 1. P. L. 10.

School boards  
may extend aid  
to free public  
libraries al-  
ready estab-  
lished.

17. In any school district, except cities of the first and second class, wherein there is or shall hereafter be established, otherwise than under the provisions of the act to which this is a supplement,<sup>2</sup> a free non-sectarian public library, the school directors, board or organization having control of the

<sup>1</sup> By the supplement of April 2, 1903, P. L. 133, the school directors of townships surrounding or immediately adjoining boroughs, are authorized to unite with the directors of the latter in establishing free public libraries in said boroughs or townships, or in aiding such libraries already established therein. The

Act of May 11, 1901, P. L. 169, confers on school boards the right to appropriate private property for public library purposes, and prescribes the mode of assessing damages in case of failure to agree.

<sup>2</sup> The Act of June 28, 1895, P. L. 411, *supra*.



common schools of said district may, instead of establishing<sup>30 March 1897</sup> another public library and providing for its government, extend aid to such library on such terms as to control and management as shall be agreed upon between the managers thereof and the school authorities, and for that purpose may levy the taxes provided for in the act to which this is a supplement, in the manner provided therein. And levy taxes for such purpose.

18. The managers of any public library receiving aid under this act shall annually report to the school board furnishing such aid an account of the expenditure of the money so received, under the oath of the managers or their secretary and treasurer, and such account shall be subject to the jurisdiction of the auditors by whom the accounts of the school board are audited, in like manner as their accounts. Id. § 2. Library managers to make annual report to board. Annual account to be audited.

19. In any case wherever in any city of the third class a free, non-sectarian public library now exists, or is in the course of erection, or shall hereafter be established, under the form of an agreement between the controllers of the school district of such city and any incorporated library association therein, upon terms as to control and management whereby the said school district and association have equal representation, such agreement is hereby declared to be lawful, and shall be deemed a valid exercise of the respective rights and obligations of such district and incorporated association for the establishment and maintenance of a public library; *Provided, however,* The said agreement, by its terms, shall require the appropriation of no money on the part of the district in excess of the revenue derived by existing law from the authorized levy of one mill on each dollar of valuation for library purposes; *And further provided,* The said agreement by its terms shall require the said association to convert its entire property, or the income derived therefrom, to the uses of the library so established. 22 May 1901. § 1. P. L. 238. Free public libraries in cities of third class. Appropriations therefor.

20. It shall be lawful for such city to dedicate, for the uses of said library, such real estate as may be suitable therefor; and to bind itself by ordinance guaranteeing that such library will be maintained under such agreement, at an annual expenditure not exceeding the amount derived from the library tax of said school district, at the authorized rate of one mill on each dollar of valuation. Id. § 2. Dedication of real estate by city.

21. It shall be lawful for the school controllers of such school district to appropriate, under such agreement, the entire amount realized from the levy of the said library tax now authorized by law, to the maintenance of the library so established, as aforesaid, and to the purchase of books therefor, and to direct the monthly payment of the revenue so derived, by the treasurer of said school district, into the treasury of said library. Id. § 3. Maintenance of library.

22. The representatives of the corporate bodies, aforesaid, appointed to conduct the control and management of such Id. § 4. Corporate management.

22 May 1901.

Powers of  
corporation.Salaries of  
officers.

Id. § 5.

Annual report  
of managers.Audit of ac-  
counts.

Id. § 6.

Validation of  
prior agree-  
ments, etc.

library, shall, under the name and title of "managers of library," be a body politic and corporate, and shall manage and direct the affairs of said library, and make all necessary by-laws and regulations, not inconsistent with the constitution and laws of the commonwealth. They shall have the power to sue and be sued, to have succession, to adopt a common seal; and to receive, hold, dispose of and convey, all real and personal property purchased by, or conveyed to them by gift, devise or otherwise, in trust for the use of said institution, and shall serve without compensation; *Provided*, The secretary and the treasurer is elected from the number of said managers, shall receive such salary or compensation for their actual services as shall be affixed to said offices respectively, by said managers.

23. The said managers shall annually report, in writing, to the board of school controllers of the district and to the directors of said association, respectively, an account of the expenditure of the moneys so received, as aforesaid, under the oath of the said managers or their secretary or treasurer, and such account shall be subject to the jurisdiction of the auditors by whom the accounts of the school controllers are audited, in like manner as their accounts.

24. Any agreement, ordinance, dedication or organization to the end hereof, which shall have been heretofore concluded is hereby declared to be valid and effectual for the purposes of this act.

## Public Officers.

### I. MISDEMEANORS BY MUNICIPAL OFFICERS.

1. Loaning public money by officers. Penalty.
2. Depositing public money for gain by officers. Penalty.
3. Embezzlement by public officers. Penalty.
4. Illegal suretyships and other relations by councilmen, etc. Penalty.
5. Solicitation to corrupt interest in contracts, etc. Penalty.
6. City property not to be used for private gain. City officer not to be interested in contract with city. Penalty.
7. Limitation of prosecutions against corporation officers.

### II. OATH OF PUBLIC OFFICERS.

8. Constitutional oath of office.

### III. NECESSARY ELECTION EXPENSES.

9. Necessary election expenses defined. How such expenses may be incurred. Constitutional oath extended to municipal officers.

10. Penalty for violation of act.

### IV. POLITICAL ASSESSMENTS.

11. Assessments of public officials for political purposes, prohibited. Voluntary contributions may be made for campaign purposes.
12. Violation of act to be misdemeanor. Penalty.

### I. Misdemeanors by Municipal Officers.

31 March 1860.  
§ 62. P. L. 399.Loaning public  
money by  
officers.

Penalty.

1. If any officer of this commonwealth, or of any city, borough, county or township thereof, shall loan out, with or without interest, or return therefor, any money or valuable security received by him, or which may be in his possession, or under his control by virtue of his office, he shall be guilty of a misdemeanor in office, and on conviction be sentenced to pay a fine not exceeding one thousand dollars, and undergo an imprisonment, by separate or solitary confinement at labor, not exceeding five years, and if still in office, be adjudged thereafter incapable of exercising the same, and the said office shall

be forthwith declared vacant by the court passing the sentence.<sup>1</sup> 81 March 1890.

2. If any such officer shall enter into any contract or agreement with any bank, corporation or individual, or association of individuals, by which said officer is to derive any benefit, gain or advantage from the deposit with such bank, corporation or individual, or association, of any money or valuable security held by him, or which may be in his possession, or under his control by virtue of his said office, he shall be guilty of a misdemeanor, and on conviction be sentenced to pay a fine not exceeding one thousand dollars, and to undergo an imprisonment not exceeding one year, and, if still in office, be adjudged thereafter incapable of exercising the same, and the said office shall be forthwith declared vacant by the court passing sentence. Id. § 68.  
Depositing public money for gain by officers.  
Penalty.

3. If any state, county, township or municipal officer of this commonwealth,<sup>2</sup> charged with the collection, safe keeping, transfer or disbursement of public money, shall convert to his own use in any way whatsoever, or shall use by way of investment in any kind of property or merchandise any portion of the public money<sup>3</sup> entrusted to him for collection, safe keeping, transfer or disbursement, or shall prove a defaulter, or fail to pay over the same when thereunto legally required by the state,<sup>4</sup> county or township treasurer, or other proper officer or person authorized to demand and receive the same, every such act shall be deemed and adjudged to be an embezzlement of so much of said money as shall be thus taken, converted, invested, used or unaccounted for, which is hereby declared a misdemeanor; and every such officer, and every person or persons whomsoever aiding or abetting, or being in any way accessory to said act, and being thereof convicted, shall be sentenced to an imprisonment, by separate or solitary confinement at labor, not exceeding five years, and to pay a fine equal to the amount of the money embezzled. Id. § 65.  
Embezzlement by public officers.  
Penalty.

4. It shall not be lawful for any councilman, burgess, trustee, manager or director of any corporation, municipality or public institution to be at the same time a treasurer, secretary or other officer subordinate to the president and directors, who shall receive a salary therefrom, or be the surety of such Id. § 66.  
Illegal sureties and other relations by councilmen, etc.

<sup>1</sup> Whilst this provision does not subject the borrower to a criminal prosecution, a civil action will lie against him. *Pittsburgh v. Moreland*, 30 Pitts. R. 195.

<sup>2</sup> A school treasurer is indictable under this section. *Commonwealth v. Morrissey*, 86 Pa. 416.

<sup>3</sup> This includes the money of a city. *Commonwealth v. Marcer*, 29 Leg. Int. 52. The Act of May 16, 1857, P. L. 535, makes it a criminal offence for city, county or township treasurers to divert to other uses any moneys that may be paid into their hands for a specific purpose.

The Act of May 26, 1897, P. L. 108, provides for the requiring of additional security from certain insolvent and delinquent tax collectors and other public officers and their removal in certain cases, and the filling of vacancies.

<sup>4</sup> The Act of May 24, 1893, P. L. 125, provides for monthly returns and payments on the first Monday of each month by county and city officers of moneys received by them for the use of the state, under the penalties therein mentioned.

31 March 1890. officer,<sup>1</sup> nor shall any member of any corporation or public institution, or any officer or agent thereof, be in any wise interested in any contract for the sale or furnishing of any supplies or materials to be furnished to, or for the use of any corporation, municipality or public institution of which he shall be a member or officer,<sup>2</sup> or for which he shall be an agent, nor directly nor indirectly interested therein, nor receive any reward or gratuity from any person interested in such contract or sale; and any person violating these provisions, or either of them, shall forfeit his membership in such corporation, municipality or institution, and his office or appointment thereunder, and shall be held guilty of a misdemeanor, and, on conviction thereof, be sentenced to pay a fine not exceeding five hundred dollars.

Penalty.

Id. § 67.  
Solicitation to  
corrupt inter-  
est in con-  
tracts, etc.

Penalty.

5. Any person who shall contract for the sale, or sell any supplies or materials as aforesaid, and shall cause to be interested in any such contract or sale, any member, officer or agent of any corporation, municipality or institution, or give, or offer to give any such person any reward or gratuity to influence him or them in the discharge of their official duties, shall not be capable of recovering anything upon any contract or sale in relation to which he may have so practiced, or attempted to practice, corruptly, but the same shall be void, and such party shall be guilty of a misdemeanor, and, on conviction thereof, be sentenced to pay a fine not exceeding five hundred dollars.<sup>3</sup>

25 May 1890.  
Art. IV., § 11.  
P. L. 284.

City property  
not to be used  
for private  
gain.

City officer not  
to be inter-  
ested in con-  
tract with  
city.

Penalty.

6. No portion of the property of the city shall be used for purposes of private gain by any officer, councilman, agent or employee of said city, or of any department thereof, nor shall the same be wilfully used or injured, or be sold or disposed of in any manner, without the consent of councils, by any such officer, councilman, agent or employee. Nor shall any officer, councilman, agent or employee of said city, or of any department thereof, be interested, directly or indirectly, either personally, or as a member or officer of any firm, company or corporation contracting with the city or any department thereof, for the purchase, sale, use, lease, occupation or enjoyment of any of the works, material or property of said city. Any violation of the provisions of this section shall be a misdemeanor, and upon conviction thereof, the person or persons so offending shall be punished by a fine not exceeding one thousand dollars, and by imprisonment not exceeding one year, or

<sup>1</sup> On a *quo warranto* the court will give judgment of ouster, under this section, against councilmen who become sureties of city officers, without a previous conviction on an indictment. *Commonwealth v. Allen*, 70 Pa. 465. The Act of May 20, 1891, P. L. 101, permits the salaried officers of trust, deposit or other purely private or business corporations to serve as directors thereof, but is silent as to suretyships.

<sup>2</sup> A contract entered into by a municipal corporation in violation of this act is

absolutely void and incapable of ratification. *Milford Borough v. Milford Water Co.*, 124 Pa. 610; *Trainer v. Wolfe*, 140 Id. 279. See also *Commonwealth v. DeCamp*, 177 Id. 112; *Commonwealth v. Hoyt*, 31 C. O. R. 200, and comp. *Marshall v. Elkwood City Boro.*, 189 Pa. 348.

<sup>3</sup> See the Act of April 29, 1874, P. L. 115, defining and punishing the offence of corrupt solicitation of members of assembly, state, county, election, municipal or other public officers.

either, at the discretion of the court trying the same: and upon such conviction the party offending shall be forthwith removed from his office or employment, and shall not thereafter be eligible to election or appointment to any place of profit or trust under said city, or any department thereof.<sup>1</sup>

7. Indictments for misdemeanors committed by any officer, director, receiver, superintendent, manager, broker, attorney, agent, employee or member of any bank, body corporate or public company, municipal or quasi-municipal corporation, may be commenced and prosecuted at any time within four years from the time the alleged offense shall have been committed.<sup>2</sup>

<sup>28</sup> May 1889.  
Art. IV.

<sup>12</sup> June 1878.  
§ 6. P. L. 197.  
Limitation of  
prosecutions  
against corpo-  
ration officers.

## II. Oath of Public Officers.

8. Senators and representatives and all judicial, state and county officers<sup>3</sup> shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation: "*I do solemnly swear (or affirm) that I will support, obey and defend the constitution of the United States and the constitution of this commonwealth, and that I will discharge the duties of my office with fidelity; that I have not paid or contributed, or promised to pay or contribute, either directly or indirectly, any money, or other valuable thing, to procure my nomination or election (or appointment), except for necessary and proper expenses expressly authorized by law; that I have not knowingly violated any election law of this commonwealth, or procured it to be done by others in my behalf; that I will not knowingly receive, directly or indirectly, any money, or other valuable thing, for the performance or non-performance of any act or duty pertaining to my office, other than the compensation allowed by law.*"

Const. 1874.  
Art. VII., § 1.  
Constitutional  
oath of office.

## III. Necessary Election Expenses.

9. No person who shall hereafter be a candidate for the nomination, or for election to the senate or house of representatives, or to any office of the judiciary, or to any state, municipal or county office in this commonwealth, shall pay or contribute, either directly or indirectly, any money or other valuable thing, or knowingly allow it to be done by others for him, either for the nomination, election or appointment, except necessary expenses as follows, to wit:

<sup>18</sup> April 1874.  
§ 1. P. L. 64.  
Necessary elec-  
tion expenses  
defined.

I. For printing and traveling expenses.

II. For dissemination of information to the public.

<sup>1</sup> The section amended as above by Act of May 16, 1901, § 5, P. L. 227.

<sup>2</sup> The preceding sections of the above act, which is an amendment to the criminal code of 1860, prescribe the punishment for embezzlement by municipal or other corporation officers, keeping or publishing fraudulent accounts, destroying,

altering or falsifying corporation books or records, etc. The charging or demanding of illegal fees by any public officer is punishable by a forfeiture of fifty dollars to the party injured, by the Act of May 26, 1897, P. L. 100.

<sup>3</sup> Extended to municipal officers by Act of April 18, 1874, *infra* 9.

18 April 1874.

III. For political meetings, demonstrations and conventions.<sup>1</sup>

How such expenses may be incurred.

The foregoing expenses may be incurred either in person or through other individuals or committees of organizations duly constituted for the purpose, but nothing contained in this act shall be so construed as to authorize the payment of money or other valuable thing for the vote or influence of any elector, either directly or indirectly, at primary, township, general or special elections, nominating conventions, or for any corrupt purposes whatever incident to an election; and all judicial, state, county and municipal officers hereafter elected shall, before entering upon the duties of their respective offices, take and subscribe the oath prescribed by section first of article seven of the constitution of this commonwealth.

Constitutional oath extended to municipal officers.

Id. § 2.

Penalty for violation of act.

10. Every person violating either of the provisions of this act shall be guilty of a misdemeanor, and, on conviction, shall be subject to fine not exceeding one thousand dollars, and to imprisonment not exceeding one year, or both, or either, at the discretion of the court.<sup>2</sup>

## IV. Political Assessments.

15 July 1897.  
§ 1. P. L. 276.

Assessment of public officials for political purposes, prohibited.

11. It shall be unlawful for any officer of this commonwealth or of any county thereof, or for any mayor or head of department, or other officer of any city of this commonwealth, to make or cause or knowingly permit to be made, any assessment upon the pay, wages or salary of any officer or employee appointed by or holding office or employment under him, for any political or party purpose whatsoever, or to make or cause or knowingly permit to be made, any demand for the payment or gift of any money or other valuable thing to any committee, organization or person for use in any manner for any political or party purpose; *Provided, however,* That nothing in this act contained shall prevent any officer or other employee appointed as aforesaid from making a voluntary contribution to any committee or organization for legitimate political and campaign purposes.

Voluntary contributions may be made for campaign purposes.

Id. § 2.

Violation of act to be misdemeanor.

Penalty.

12. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof in the court of quarter sessions of the proper county, be punished by imprisonment in the county prison for

<sup>1</sup> A candidate may employ another person to canvass a district in his interest and urge his claims by argument, but he cannot pay or promise to pay an elector for his time or traveling expenses to the polls to vote for him. *Howard v. Jacoby*, 2 Kulp 21. He may make interest without corruption, and use art without abusing it, to secure his election, but may not, either directly or indirectly, purchase the vote or influence of an elector, or do any act for any corrupt purpose whatever in-

cident to the election. *Williams v. Commonwealth*, 91 Pa. 493.

<sup>2</sup> Under this act an indictment will lie for perjury for violation of the constitutional oath extended by its provisions to municipal officers, but forfeiture of office and perpetual disqualification are not, in the case of such officers, a part of the penalty, as is prescribed in the remainder of Article VII. of the constitution in relation to members of assembly and judicial, state and county officers. *Commonwealth v. McCarter*, 98 Pa. 607.

a term of not more than one year, and by fine of not more <sup>15 July 1897.</sup> than one thousand dollars, either or both, as the said court shall impose.<sup>1</sup>

<sup>1</sup>This act supplies that of June 18, 1883, P. L. 96, the proviso as to "volun-

tary contributions" being superadded.

## Public Parks.

1. Cities may acquire grounds for public park purposes. Councils may make regulations and appropriate moneys for public parks.

2. Cities may acquire private and poor-house property for public parks. Property outside city limits may be annexed. When nominal damages to be awarded.

3. Proceedings for assessing damages for appropriation of private property for public park purposes. Petition to court of common pleas. Appointment of viewers. Time of meeting. Notice of meeting, how to be given.

4. Viewers to be sworn. To estimate quantity and value of property taken. To

consider advantages and disadvantages. Report of viewers. Confirmation and judgment thereon. Collection of amount awarded.

5. Appeal from report. Affidavit. Issue to be formed and tried by jury. Appeal to higher court.

6. Court of common pleas to make orders as to notices, etc. Costs to be paid by city. Compensation of viewers.

7. Court to appoint board of directors of city trusts on petition of councils in certain cases. Powers and duties.

8. Term of service. Removal. Vacancies.

9. Duties of board.

10. To serve without compensation.

11. Application of act.

1. The several cities of this commonwealth shall be, and are hereby authorized and empowered to purchase, take and hold ground to be used for the purpose of public parks within the corporate limits of such cities,<sup>1</sup> and the councils of such cities shall have the power to ordain and enact ordinances, rules and regulations necessary for the purchase, improvement, preservation, regulation, management and control of the same, and to enforce the said ordinances, rules and regulations by proper penalties; and the said councils shall have and are hereby given power to make appropriations as required for the payment of any property which may be purchased under authority of this act.

2. It shall be lawful for, and the right is hereby conferred upon, the cities of this commonwealth to purchase, acquire, enter upon, take, use, and appropriate private property for the purpose of making, enlarging, extending, and maintaining public parks, within or without the corporate limits of such cities, and to enter upon, take, use and appropriate any poorhouse properties held for the accommodation of the poor of any districts, wards or townships, within the corporate limits of such cities, for the purpose of making, enlarging, extending, and maintaining such public parks, whenever the councils thereof shall by ordinance or joint resolution determine thereon; *Provided*, That where said private property is outside of the city, it may be annexed thereto by ordinance of such city; *And provided*, That where any poorhouse properties shall be so taken, and such cities shall have made adequate provision for thereafter accommodating and supporting the poor of the districts, wards or townships within such

<sup>1</sup> Although appropriated for public park purposes, a portion of the land may be devoted to the use of a free public library

situated therein. *Laird v. Pittsburgh*, 205 Pa. 1.

24 June 1891.  
§ 1. P. L. 894.

Cities may acquire grounds for public park purposes.

Councils may make regulations and appropriate moneys for public parks.

26 June 1895.  
§ 1. P. L. 849.

Cities may acquire private and poor-house property for public parks.

Property outside city limits may be annexed.

26 June 1895.

When nominal damages to be awarded.

Id. § 2.

Proceedings for assessing damages for appropriation of private property for public park purposes.

Petition to court of common pleas.

Appointment of viewers.

Time of meeting.

Notice of meeting, how to be given.

Viewers to be sworn.

To estimate quantity and value of property taken.

cities, wherein such poorhouses are located, nominal damages only shall be awarded for such taking, and the lands shall be held on condition that such cities shall continue to make such adequate provisions for the poor of such districts, wards or townships.<sup>1</sup>

3. Whenever any of said cities, in the exercise of the right so conferred, has heretofore acquired, taken, used or appropriated, or shall hereafter acquire, take, use or appropriate private property for public park purposes, and said city cannot agree with the owner or owners, lessee or lessees of such private property upon the compensation for the property appropriated and the damages done, or when by reason of the absence or legal incapacity of any such owner or owners, lessee or lessees, no such compensation can be agreed upon, the court of common pleas of the proper county, or any judge thereof in vacation, on application thereto by petition by said city, or such owner, lessee or any person interested, shall appoint three discreet, disinterested freeholders of said city as viewers to view and ascertain the damages done by reason of such taking, use, appropriation, occupancy or injury, and shall appoint a time, not less than twenty, nor more than thirty days thereafter, for said viewers to meet at or upon the premises where the damages are alleged to be sustained, or the property taken, of which time and place ten days' notice shall be given by the petitioner to said viewers and all parties interested by personal service when such service can be obtained, otherwise by publication in one or more newspapers, and by handbills posted on the premises, or in such other manner that said court shall direct.

4. The said viewers or any two of them having been duly sworn or affirmed faithfully, justly and impartially to decide and a true report make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire into in pursuance of the provisions of this act, and having viewed the premises or examined the property, shall estimate and determine the quantity, quality and value of the land or property so entered upon, taken, used, appropriated or injured, as the case may be, and having a due regard to and making just allowance for the advantages which may have resulted, or which may seem likely to result, to the

<sup>1</sup> The section amended as above by Acts of May 11, 1901, P. L. 187, and April 25, 1903, P. L. 316. See as to date of appropriation of lands, *Shields v. Pittsburgh*, 201 Pa. 328. The Act of June 26, 1895, P. L. 331, authorizes school boards in cities and boroughs to permit the use of school grounds for public park and recreation purposes, and such boards, as well as the city or borough authorities, to lease grounds for the same purpose from corporations, societies, associations or individuals. Another act of the same date, P. L. 332, confers upon municipalities authority to appropriate public grounds for

the use of the state national guard (apparently for temporary occupation merely). By the Act of June 4, 1901, P. L. 424, councils of cities of the third class are authorized to sell or lease the coal under any public park or common owned by the city and apply the proceeds to the improving, policing and lighting said park or common. The supplement of April 16, 1903, P. L. 215, prescribes the mode of application of the surplus, and authorizes the issue of park improvement bonds for payment of the cost of the improvement.



owner or owners of said land or property in consequence of the making, enlarging or extending of such public park, and after having made a fair and just comparison of said advantages and disadvantages they shall estimate and determine whether any, and, if any, what amount of damages has been or may be sustained, and to whom payable, and make report thereof to said court. If any damages be awarded and the report of said viewers be confirmed by said court, judgment shall be entered thereon, and if the amount thereof be not paid within thirty days after the entry of such judgment, said judgment shall be collected by due legal process as other judgments are collected from said city.

26 June 1895.

To consider advantages and disadvantages.

Report of viewers.

Confirmation and judgment thereon.

Collection of amount awarded.

5. Upon the report of said viewers, or any two of them, any party who may, within twenty days thereafter, file an appeal from said report to said court in writing, and accompanied with an affidavit that the same is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done, and after such appeal either party may put the cause at issue in the form directed by said court, and the same shall be tried by said court and a jury, and after final judgment either party may appeal to the superior or supreme court under the provisions and in the manner prescribed in other cases.

Appeal from report.

Affidavit.

Issue to be formed and tried by jury.

Appeal to higher court.

6. The said court of common pleas shall have power to order what notices shall be given in connection with any of the proceedings, and may make all such orders as it may deem requisite. The costs incurred in the proceedings aforesaid shall be defrayed by said city, and each of the viewers shall be entitled to receive a sum not exceeding five dollars per day, or such compensation as shall be decided upon by the proper court, not exceeding five dollars per day, for every day necessarily employed in the performance of their duties.<sup>1</sup>

Court of common pleas to make orders as to notices, etc.

Costs to be paid by city.

Compensation of viewers.

7. Whenever any property or estate, whatsoever, has been bequeathed or devised to any municipal corporation of this commonwealth in trust, for the purpose of establishing or maintaining a public park for the use and benefit of the citizens of such municipality, it shall be lawful for, and the judge or judges of the court of common pleas of the county in which such municipal corporation is located, is or are, on petition of the councils of said municipal corporation, hereby directed, to appoint five persons as directors of city trusts, all of whom shall be citizens of such municipality, and none of whom shall hold any office or employment thereunder, who shall exercise and discharge all the duties and powers of said city, however acquired, concerning such property bequeathed, devised or appropriated to such charitable use, to the extent that the same has been, or hereafter may be, by statute or

4 June 1901.

§ 1. P. L. 429.

Court to appoint board of directors of city trusts on petition of councils, in certain cases.

Powers and duties.

<sup>1</sup> Section 2 of the act in the text amended as above by the Act of July 15, 1897, P. L. 273. The latter appears to be a sub-

stitute for the Act of June 8, 1895, P. J. 188, which applied exclusively to cases thereafter arising.

4 June 1901.

otherwise, vested in or delegated to the said city or the officers thereof.

Id. § 2.

Term of service.

Removal.

Vacancies.

8. That the persons so appointed shall serve as members of the board of directors of city trusts during good behavior, subject, however, to removal by the said judge or judges of the court of common pleas for dereliction or neglect of duty, or for any other cause deemed by the said court to be important for the conservation of the said trusts thus imposed upon them. All vacancies shall be, from time to time, filled by the said court, on petition of the councils of said city, or any of its citizens.

Id. § 3.

Duties of board.

9. It shall be the duty of the said directors of trusts to carefully invest and preserve the trust funds, and they shall have power to make such rules and by-laws for the proper regulation of their business not inconsistent with the terms annexed to any bequest or devise in the last will and testament of any decedent, and they shall have power to appoint and employ as many agents and employees as in their judgment shall be necessary for the proper discharge of the said trust or trusts, and in the name and in accordance with the conditions of said trusts to do any and all things requisite for the proper administration and management of the property under their control.

Id. § 4.

To serve without compensation.

10. The said directors, in the discharge of their duties and within the scope of their powers aforesaid, shall be considered agents or officers of said city, but no compensation or emolument whatever shall be received by them for any services performed relating to the said trusts, nor shall any of them have or acquire any personal interest in any contract whatever made through them or their agents or employees.

Id. § 5.

Application of act.

11. The provisions of this act shall not apply to or in any manner affect cities of the first or second classes.

## Railroads.

### I. LOCATION OF RAILROADS.

1. Municipal authorities may contract with railroad companies with respect to change of location or grade. *Proviso.*  
2. Railroad companies may elevate or depress their lines over or under the streets of cities. Consent of councils to be first obtained. Conditions imposed by councils to be binding on companies.

### II. TRESPASS UPON RAILROAD TRAINS, ETC.

3. Trespassing upon railroad cars or trains. Penalty. Commitment of offenders.  
4. Summary conviction before magistrate. In default of payment of fine and costs, defendant to be committed.  
5. Penalty for obstruction of street crossings by railroads. One-half of fine to go to informer. *Proviso.*

### I. Location of Railroads.

9 June 1874.  
§ 1. P. L. 282.

Municipal authorities may contract with railroad companies with respect to change of location or grade.

1. That the proper authorities of any county, city, town or township of this state, respectively, be and they are hereby authorized and empowered to enter into contracts with any of the railroad companies whose roads enter their limits, respectively, whereby the said railroad companies may relocate, change or elevate their railroads within said limits, or either of them, in such manner as in the judgment of such au-

thorities, respectively, may be best adapted to secure the safety of lives and property, and promote the interest of said county, city town or township; and for that purpose the said authorities shall have power to do all such acts as may be necessary and proper to effectually carry out such contracts; and any such contracts made by any railroad company or companies as aforesaid with said authorities, or either of them, are hereby fully ratified and confirmed; *Provided*, That nothing in this proviso contained shall affect any contract made, or hereafter to be made, with any railroad company, from [for] apportioning the expenses of altering and adjusting the grades of existing railroads and intersecting streets in any city or borough, so as to dispense with grade crossings.<sup>1</sup>

2. The railroad companies now or hereafter incorporated under the laws of this commonwealth, whose route extends through or into any city of this commonwealth, may elevate or depress the whole or any part of so much of the line of their railroad as lies within the corporate limits of such city, over or under the surface of the streets of such city; *Provided*, That the consent of said city, through its councils, to such elevation or depression be first had and obtained; *And provided also*, That any conditions imposed by ordinance granting such consent, regulating or restricting the carriage of freight, or as to route, manner of construction, motive power to be used, and charges for the conveyance of passengers, shall be valid and binding upon such railroad company so accepting the same.<sup>2</sup>

<sup>9</sup> June 1874.

<sup>31</sup> May 1887.  
§ 1. P. L. 275.

Railroad companies may elevate or depress their lines over or under the streets of cities.

Consent of councils to be first obtained.

Conditions imposed by councils to be binding on companies.

## II. Trespass Upon Railroad Trains, etc.

3. Any person found entering, or being in or upon any railroad engine or car, whether the same be passenger, freight, coal or other car, on any railroad in any city or county in this

<sup>11</sup> June 1879.  
§ 1. P. L. 152.

Trespassing upon railroad cars or trains.

<sup>1</sup> Municipal consent is necessary to the original occupation of a public street by a railroad company, unless the charter of the latter contains express or implied authority for such occupation. But the municipality cannot, without legislative sanction, legalize the operation and maintenance on such street of a railroad not possessing a grant or franchise authorizing it to exercise that right. *Philadelphia v. River Front R. R. Company*, 173 Pa. 334. Municipal consent, it seems, is not required to empower a railroad company to construct its road across streets which are merely plotted and not actually opened. *Penna. Schuylkill Valley R. R. Company v. Philadelphia & Reading R. R. Company*, 160 Id. 277.

<sup>2</sup> The purpose of this act is to avoid grade crossings; it applies only to steam railroads, and not to elevated street passenger railways, there being no statute of

this state authorizing the incorporation of the latter. *Potts v. Elevated R. R. Company*, 161 Pa. 396. See the Act of June 7, 1901, P. L. 531, "relating to railroad crossings of highways, and for the regulation, alteration and abolition of grade crossings, except in cities of the first and second classes," under the provisions of which grade crossings are prohibited unless by authority of the court of common pleas, invoked under the form of proceedings prescribed in the act. The statute is prospective in its operation. The Act of April 22, 1905, P. L. 295, authorizes the vacation of public highways at grade crossings over railroads, and the opening of undergrade or overgrade crossings in lieu thereof, and the Act of May 4, 1905, P. L. 380, empowers railroads to relocate bridges belonging to bridge companies, to accommodate the location or construction of their roads.

11 June 1879.

Penalty.

Committal of  
offenders.24 May 1878.  
§ 2. P. L. 125.Summary con-  
viction before  
magistrate.In default of  
payment of  
fine and costs,  
defendant to  
be committed.20 March 1845.  
§ 1. P. L. 191Penalty for ob-  
struction of  
street crossings  
by railroads.

commonwealth, contrary to the rules of the person or persons or corporation owning or operating the same, and with the intention of being in or upon, riding or traveling upon such engine or car without paying fare, or committing larceny, violence or destruction thereon, or of threatening, intimidating or assaulting travelers or other persons upon such engine or cars, shall, upon conviction, forfeit and pay a penalty of not less than five dollars or more than fifteen dollars, which penalty shall be paid to the treasurer of the school district in which said offense was committed, for the use of said district, or be committed to the county jail of said county for a period not exceeding ten days, either or both, at the discretion of the magistrate; and in default of payment of fine, as aforesaid, and costs, then the said alderman, magistrate or justice of the peace shall commit the person so convicted to the jail of the county wherein the offense was committed, for a further period not exceeding ten days.<sup>1</sup>

4. Any constable or police officer having knowledge, or being notified of any violation of this act, shall forthwith arrest such offender, and take him before any magistrate, alderman, or justice of the peace; or any such magistrate, alderman or justice of the peace shall issue a warrant or *capias* for the arrest of any such offender upon information duly made on oath or affirmation; and said magistrate, alderman or justice, upon the person charged being produced before him, shall forthwith proceed to hear and determine the matter in issue, and if he shall convict the person so charged with the violation of the provisions of this act, he shall proceed to pronounce the forfeiture of the penalty which he shall adjudge against the person so convicted, and shall commit the person so convicted to the county jail of the proper county for the period aforesaid, and if the person so convicted refuse or neglect to pay such penalty and costs immediately, then the said magistrate, alderman or justice shall commit the person so convicted to the jail of the county wherein the offense was committed for a further period not exceeding ten days.

5. It shall not be lawful for any railroad company<sup>2</sup> to block up the passage of any crossings of public streets or roads, or obstruct the said crossings with their locomotives or cars; and if any engineer or other agent of any such railroad company shall obstruct or block up such crossings, he or they shall be subject to a penalty of twenty-five dollars, to be recovered, with costs, in the name of the commonwealth of

<sup>1</sup>This act is a substitute for, and repeal of the first section of the Act of May 24, 1878, P. L. 125. The third section of the latter act expressly repeals all acts supplied thereby. By the Act of May 23, 1877, P. L. 177, breaking into railroad cars is constituted a felony, as is likewise, by the Act of June 10, 1901, P. L. 555, the malicious removal of packing from journal boxes.

<sup>2</sup>This act applies to all railroad companies, whether incorporated before or after its passage. *Pennsylvania R. R. Company v. Kelly*, 31 Pa. 372. The obstruction of private roads or crossing places by railroad companies, after notice, is also made a finable offence by sec. 2 of the Act of April 12, 1851, P. L. 518. See *Simon v. Railroad Company*, 173 Pa. 517.

Pennsylvania, before a justice of the peace; one-half of such <sup>20 March 1845</sup> penalty shall be paid to the informer or informers, and the <sup>One-half of fine to go to in-</sup> remaining half shall be paid into the treasury of the com- <sup>former.</sup> monwealth; *Provided*, That in the event of the said engineer <sup>Proviso.</sup> or agent being unable to pay the said penalty, then and in that case the said railroad company employing the said engineer or agent shall pay the penalty aforesaid.

## Registration of Marriages, Births and Deaths.

[See BOARD OF HEALTH.]

1. Boards of health to keep books for registry of marriages, births and deaths.
2. Clergymen, magistrates, physicians etc., to report their names and residences to board. Secretary to make record thereof.
3. Medical practitioners to keep register of births and report quarterly to board. Parents to report births in certain cases.
4. Parties solemnizing marriages to fur-

- nish certificates thereof quarterly to board. What certificate to contain.
5. Penalty for violation of act.
6. Records of board to be evidence.
7. Fees for certificate and search.
8. How records of marriages and births to be entered.
9. Proviso.

1. Whenever boards of health are established by law in the <sup>5 May 1876.</sup> cities of the commonwealth, said boards shall furnish separate books in which shall be registered, in the manner here- <sup>§ 1. P. L. 118.</sup> inafter directed, the returns made to said boards of the marriages which may be contracted, and the births and deaths <sup>Boards of health to keep books for registry of marriages, births and deaths.</sup> that may occur in said cities.

2. It shall be the duty of clergymen of all denominations, <sup>Id. § 2.</sup> of clerks or keepers of records of all churches and religious societies, as also of every magistrate and of other persons by <sup>Clergymen, magistrates, physicians, etc., to report their names and residences to board.</sup> or before whom any marriage may hereafter be solemnized or contracted, and of every practicing physician, and of every practitioner of midwifery in said cities, on or before the first day of July next ensuing (the day in which the law goes into effect), to report his, her or their names and places of residence to the secretary of the board of health, at the office of the board of health, and it shall be the duty of the secretary <sup>Secretary to make record thereof.</sup> of the board of health to have the same properly registered in index form, in suitable books to be furnished by the board of health; in the event of any of the persons above specified removing to any other place of residence, it shall be their duty to notify the secretary of the board of health of the fact within thirty days after such removal, except when the persons removing shall cease to act in such official capacity as makes them subject to the provisions of this act.

3. Every person practicing midwifery in said cities under whose charge or superintendence a birth shall hereafter take <sup>Id. § 3.</sup> place, shall keep a true and exact register of such birth, and shall enter the same on a blank schedule to be furnished by the board of health; this schedule shall contain a list of the <sup>Medical practitioners to keep register of births and report quarterly to board.</sup> births which have occurred under his or her care during the preceding three months, and shall set forth, as far as the same can be ascertained, the full name of each child (if any name shall have been conferred), its sex, color, the full name

## 182 REGISTRATION OF MARRIAGES, BIRTHS & DEATHS.

§ May 1876.

Parents to report births in certain cases.

and occupation of its parent, or parents, the day and place of its birth; and the schedule shall be delivered, duly signed by the practitioner in the form of a certificate, on the first days of October, January, April and July, or within ten days thereafter, to the secretary of the board of health, or to any other authorized person. In case the birth of any child shall have occurred without the attendance of a physician or practitioner of midwifery, or should no other person be in attendance upon the mother immediately thereafter, it shall then become the duty of the parent, or parents, of such child to report its birth to the secretary of the board of health, in the same manner and form, and within the period above required.

Id. § 4.

Parties solemnizing marriages to furnish certificates thereof quarterly to board.

What certificate to contain.

4. It shall be the duty of every clergyman, and every magistrate, and of the clerk or keeper of the records of all religious and other societies, and of every other person by or before whom any marriage may hereafter be solemnized or contracted, to make a faithful return of the same at the expiration of every three months to the secretary of the board of health, in the form of a certificate, which shall set forth, as far as the same can be ascertained, the full name of the husband, his occupation, the place of his birth, his residence and age, the date of marriage, the full name of the wife previous to the said marriage and her age, the color of the parties and the place where, and the name of the clergyman or other person by whom the marriage ceremony was performed.

Id. § 5.

Penalty for violation of act.

5. In case any clergyman, magistrate, physician, midwife, clerk or any other person, as aforesaid, shall violate any of the provisions of this act, or refuse or neglect to perform any of the duties required by the same, he, she or they shall forfeit and pay, for every such offense, the sum of not less than five nor more than twenty dollars, for the use of the board of health, which sum or sums shall be recoverable as debts of like amount are now by law recoverable, and on non-payment of the same a capias ad satisfaciendum may issue.

Id. § 6.

Records of board to be evidence.

6. The books or registers kept by the secretary of the board of health, or a certificate duly certified by him as containing a copy of the record of any marriage or birth, shall hereafter be admitted in any court of the state as prima facie evidence of said marriage, birth or death.

Id. § 7.

Fees for certificate and search.

7. The secretary of the board of health shall receive and pay in to the city treasurer fifty cents for granting a certificate or certified copy of the record of any marriage or birth, and ten cents for making a search for either a marriage or birth, which sum shall be paid by the parties applying for the certificate or search, but the said register shall at all times be accessible to physicians, clergymen and lawyers without charge.

8. In order to secure uniformity and dispatch in the registration herein provided for, the books shall contain, upon the margin of each page, printed titles, with corresponding blanks for suitable entries for marriages and births in the order, to wit: Marriages—full name of husband, occupation, residence, birth-place, age when married, full name of wife previous to marriage, residence, birthplace, age when married, time of marriage, color of parties, ceremony employed, name of person performing the marriage, residence of the last named person, date of certificate, date of registration: Births—full name of the child, sex, color; full name of the father, his occupation, full name of the mother, day, month and year of the birth, street and number of house where born, name of physician or other person signing certificate, his residence, date of certificate, date of registration.

<sup>5</sup> May 1876.  
§ 8.  
How records of marriages and births to be entered.

9. The said boards of health shall have power to make all rules and regulations for carrying the provisions of this act into effect; *Provided, however,* That the provisions of this act shall not apply to cities of the first and second classes.<sup>1</sup>

Id. § 9.

Proviso.

<sup>1</sup> The Act of June 7, 1881, P. L. 51, provided for a system of registration of marriages, births and deaths by boards of health in cities of the third class. Containing an option clause, its unconstitutionality would seem to be evident from the existing construction placed upon such acts. See *Appeal of Scranton School District*, 113 Pa. 176; *Commonwealth v. Denworth*, 145 Id. 172. The Act of June 6, 1893, P. L. 340, with its supplement of June 24, 1895, P. L. 246, provides for the registration of births and deaths in the several counties of the state, cities where a system of registration has already been established being excepted from its provisions. By the Act of April 27, 1905, P. L. 312, creating a state department of health, §§ 10, 11, the commissioner of health is given general supervision of the

state registration of marriages, births and deaths, and the collection of vital statistics. By § 12 he is authorized to revoke or modify any by-law or regulation of a local board concerning a matter which, in his judgment, affects the public health beyond the territory over which such local board has jurisdiction. The Act of May 1, 1905, P. L. 330, provides an elaborate system of registration of births and deaths throughout the commonwealth under the direction of the state board, establishing registration districts (of which each city, borough and township shall constitute one), and regulating interments. What effect this act will have upon the relations and functions of the local boards remains to be determined by judicial construction and experience.

## Registry of Real Estate.

1. Registry of real estate in cities or third class.

2. City engineer to prepare books of plans of properties within the city. To have access to public records. Where books to be kept. Plans to show transfers. Municipal claims not to be invalidated by mis-regis-

try. Certified copies of entries to be evidence. Fee for certificate.

3. Owners of real estate to furnish description of properties. Title papers to be duly stamped. Penalty for neglect.

4. Sheriff to present deeds for registry. No deed to be recorded unless registered. Penalty for recording unregistered deed.

1. For the purpose of procuring accurate information in reference to the ownership of all real estate<sup>1</sup> the councils of each of said cities of the third class shall provide by ordinance for a registry thereof in accordance with this act.<sup>2</sup>

<sup>23</sup> May 1889.  
Art. XVI,  
§ 1. P. L. 328.

Registry of real estate in cities of third class.

<sup>1</sup> See *Philadelphia v. Dungan*, 124 Pa. 52.

<sup>2</sup> This article of the Act of 1889 is a substitute for the Act of April 11, 1879, P. L. 22, whose provisions it remodeled and made general. The latter belonged to the class of laws known as "option acts," the operation of which was made contingent upon their acceptance by ordi-

nance of councils. The constitutionality of such legislation is no longer sustainable. See *Scranton S. D. App.*, 113 Pa. 176; *Commonwealth v. Denworth*, 145 Id. 172. The article was amended as above by the Acts of May 16, 1901, § 36, P. L. 252, and March 30, 1903, § 7, P. L. 122.

23 May 1889.  
Art. XVI., §2.

City engineer  
to prepare  
books of plans  
of properties  
within the  
city.

To have access  
to public  
records.

Where books  
to be kept.

Plans to show  
transfers.

Municipal  
claims not to  
be invalidated  
by mis-registry.

Certified copies  
of entries to  
be evidence.

Fee for cer-  
tificate.

#### Id. § 8.

Owners of real  
estate to fur-  
nish descrip-  
tion of prop-  
erties.

Title papers to  
be duly  
stamped.

Penalty for  
neglect.

#### Id. § 4.

Sheriff to pre-  
sent deeds for  
registry.

2. The city engineer of any of said cities, in which such registry shall be established, as aforesaid, under the direction of councils, shall cause to be made all such necessary books, maps and plans as will show the situation and dimensions of each property therein; which books, maps or plans shall be prepared as to show the city number and the owner of each lot, with provision for the names of future owners and dates of future transfer of title; and for such purpose the said engineer shall have free access, without charge, to any of the public records wherein the necessary information may be obtainable therefor, and may also cause search to be made in any other place for any muniments or evidences of title not reported to him, as hereninafter provided, and requisite for the completion of said books, maps or plans. The said books, maps and plans shall be carefully preserved in the department of surveys of said cities, and shall be so kept, by additions from time to time or otherwise, as to show the ownership of every lot or piece of real estate, or sub-division thereof, within the city limits, with the successive transmissions of title from the date of the commencement of such plans; but nothing herein, or in the said article, shall invalidate any municipal or tax claim, by reason that the same is not assessed or levied against the registered owner. Certified copies, under the hand of the said engineer, of any of the entries in said books, or upon said maps or plans, shall be received in evidence, in the same manner as the books, maps and plans themselves might be admissible for such purpose, and may be also furnished to any person desiring the same, for such fee or compensation, for the use of the city, as may be fixed by ordinance.<sup>1</sup>

3. It shall be the duty of all owners of unregistered real estate within the city limits, within one month from the date of the approval of the ordinance establishing such registry, and of every subsequent purchaser, devisee, or person acquiring title by partition or otherwise to any real estate therein, within one month after acquiring such title, to furnish to the said engineer, at his office, descriptions of their respective properties, upon blanks to be furnished by the city, and at the same time to present their conveyances to be stamped by said engineer without charge, as evidence of the registration thereof. Any person or persons neglecting or refusing to comply with the provisions of this section for a period of thirty days after public notice of the requirements thereof, shall be liable to a penalty of five dollars, to be recovered, with costs of suit, in the name and for the use of the city, as penalties for the violation of city ordinances are recoverable.

4. The sheriffs of the respective counties in which such cities are situated shall present for registry the deeds of all



properties within the city limits sold by them at judicial sales, whether in partition or otherwise; and the prothonotaries and recorders of deeds thereof shall not admit for record any deed for any city property bearing date subsequent to the approval of the ordinance for the establishment of such registry, unless the same shall have first been duly stamped as herein directed, as proof of registry, and any prothonotary or recorder who shall record any deed before the provisions of this section shall have first been complied with, shall be liable to a penalty of five dollars for each deed recorded in violation thereof, to be recovered, with costs of suit, in the manner hereinbefore provided.

23 May 1889.  
Art. XVI.

No deed to be recorded unless registered.

Penalty for recording unregistered deed.

## Rubbish.

1. Throwing rubbish into streets, or disturbing receptacles of garbage, etc., prohibited. Penalty.

1. From and after the passage of this act, it shall be unlawful, and is hereby forbidden, for any person or persons to throw waste paper, sweepings, ashes, household waste, rails or rubbish of any kind into any street, in any city, borough or township in this commonwealth, or to interfere with, scatter or disturb the contents of any receptacle or receptacles containing ashes, garbage, household waste, or rubbish, which shall be placed upon any of said paved streets or sidewalks for the collection of the contents thereof. Any person or persons who shall violate any of the provisions of this act shall, upon conviction thereof before any magistrate, be sentenced to pay the cost of prosecution, and to forfeit and pay a fine not exceeding ten dollars, for each and every such offense, and in default of the payment thereof, shall be committed, and imprisoned in the county jail of the proper county for a period not exceeding ten days.<sup>1</sup>

20 April 1905.  
§ 1. P. L. 227.

Throwing rubbish into streets, or disturbing receptacles of garbage, etc., prohibited.

Penalty.

<sup>1</sup> The subject matter of the above act is covered, in part at least, by the provisions of city ordinances in many of the cities of the third class, but the act does not, according to judicial interpretation, have the effect of superseding or invalidating them. A municipal corporation, it is held, may be authorized to punish, by summary conviction, an offense made

indictable under a state law, where such offense is properly the subject of police regulation. See *Morgan v. Commonwealth*, 13 Pitts. Leg. Jour. 14. That the sidewalks are within the prohibition of the act would appear to be evident, since the latter are most important portions of the street.

## School Districts.<sup>1</sup>

[See CONTAGIOUS AND INFECTIOUS DISEASES—FIRE ESCAPES—INDEBTEDNESS—MUNICIPAL CLAIMS—PUBLIC LIBRARIES—TAXES.]

### I. ELECTION OF CONTROLLERS IN CITIES OF THIRD CLASS.

1. City of third class to constitute one school district. Powers of controllers. Election of controllers. Terms. Vacancies, how filled. Annual organization of board. Officers. Vacancies in offices. Salary of secretary.
2. Election of two controllers for same term. Vacancies for unexpired terms. Tickets to designate term. Elections in cities of fifteen or more wards. How certain districts may be exempted from certain provisions of act. Certificate of non-acceptance to be filed. Provisions of act may be subsequently accepted.
3. Effect of act as to repeal.
4. Controllers not to hold salaried offices under board.
5. Penalty for payment of persons employed contrary to act.

### II. OATH OF CONTROLLERS.

6. Controllers to be sworn. Form of oath. Before whom oath to be taken. Copy to be filed.

7. Controllers may administer oath to each other.
8. Secretary to qualify president.

### III. BOND OF SECRETARY.

9. Secretary to give bond. Amount. Condition.

### IV. SCHOOL TREASURER.

10. City treasurer to be school treasurer. To give bond to board. Oath.

### V. SCHOOL TAXES.

11. Assessment and collection of school taxes. Penalties upon unpaid taxes. Appointment of collectors. Funds to be disbursed on warrant.
12. School taxes to be levied on city assessment.
13. Certification of assessment to board.

### VI. SINKING FUND.

14. Sinking fund for payment of funded debt. Rate of tax therefor. Application of tax. Proviso.

### I. Election of Controllers in Cities of Third Class.

16 June 1891.  
§ 1. P. L. 306.

City of third class to constitute one school district.

Powers of controllers.

1. Each of said cities of the third class shall constitute one school district,<sup>2</sup> to be termed the ——— school district, and all the property therein shall be the common property of said district; and the members of the board of school controllers for the time being shall have power to levy and collect taxes, and the same rights and powers in relation to real and personal property as is now by law conferred upon the school directors of the several districts of this commonwealth, and

<sup>1</sup> By former rulings of the supreme court (more particularly in the cases of *Chalfant v. Edwards*, 173 Pa. 246, and *Sugar Notch Borough*, 192 Id. 349) legislation pertaining to school districts based upon the classification of cities appeared to be regarded as wholly unconstitutional and void. By the decisions of that court in *Commonwealth v. Gilligan*; *Erie School District v. Smith*, and *Commonwealth v. Howell*, 195 Pa. 504, 515, 519, it was declared that the Act of June 16, 1891, P. L. 306, *supra*, amending sec. 41 of the Municipal Act of May 23, 1874, with its accompanying provisos, is constitutional on the ground that the General School Law of May 8, 1854, had already provided that every township, borough and city should constitute a separate school district; that classification of school districts being admissible, the Act of 1891 is to be regarded as a classification of school districts *pro tanto*, and that its subject-matter relates merely to business affairs, which, though concerning schools, are in their nature municipal, and introduces no changes in the general system of education as it had theretofore existed. The

Act of May 25, 1897, P. L. 85, providing that in cities of the third class the taxes for school and school building purposes shall be levied upon the separate city assessment, was likewise held to be constitutional, for similar reasons. Whilst the effect of these decisions has been to bring a certain degree of order out of what was theretofore chaos, it is at the same time obvious that the statute law of Pennsylvania relating to school districts in cities, boroughs and townships (and indeed the entire scheme of public education by common schools) is in pressing need of intelligent revision and codification at the hands of the legislature.

<sup>2</sup> Territory annexed to a city of the third class, comprising one school district, is to constitute part of such district. Act June 24, 1895, P. L. 239. The Act of April 3, 1903, P. L. 142, prescribes a mode of adjusting the value of real estate belonging to the respective portions of school districts enlarged by the annexation of a part of a township, and the apportionment of the debt or surplus between them.

they shall govern and manage the public schools in the manner now provided by law for the maintenance of a system of education by common schools; the qualified voters of each ward of each of said cities on the Third Tuesday in February next succeeding the issuing of letters patent to said city, [shall] elect two members of the board of school controllers of said district, one to serve for the period of two years, and one to serve for the period of four years, and every two years thereafter the qualified voters of each of said wards shall elect one person to serve for the term of four years; and all vacancies which may happen in the said board as hereby constituted, shall be filled in the manner as is now provided by law for vacancies in school boards;<sup>1</sup> the said board of controllers shall annually, on the Tuesday succeeding the municipal election, meet and organize by choosing a president and secretary, who shall be members of the board; and in case of any vacancy in any of said offices by death, resignation or otherwise, such vacancy shall be forthwith filled by said board of control for the remainder of the school year; the secretary to receive such salary as the board may determine.

<sup>16</sup> June 1891.

Election of controllers.

Terms.

Vacancies, how filled.

Annual organization of board.

Officers.

Vacancies in offices.

Salary of secretary.

2. In all cases where two members of said board are required to be elected to serve for the same term, each of the said qualified voters shall vote for one person as a member of said board of school controllers for said term, and the two persons having the highest number of votes shall be declared to be elected; and when a vacancy or vacancies shall occur in the office of school controller, by death, resignation, or in any other manner than by the expiration of the term for which any school controller shall be elected, so that more than two school controllers must be elected at the succeeding municipal election in any ward of said city, the qualified voters of such ward, in addition to the one school controller to be voted for by each elector to serve for four years, shall vote for one person to fill each of such unexpired terms by designating upon the ticket to be voted the number of years for which such school controller is elected, and each elector shall vote for but one person to fill such unexpired term; and if there be two vacancies for the same term, then the two candidates having the highest number of votes shall be declared elected; and if there should be but one vacancy for any unexpired term, then the candidate having the highest number of votes for said term shall be declared elected; *Provided further*, That in said cities of fifteen wards or more, each ward shall elect but one controller; those elected from even-

Election of two controllers for same term.

Vacancies for unexpired terms.

Tickets to designate term.

Elections in cities of fifteen or more wards.

<sup>1</sup> The vacancy is to be filled temporarily by appointment of the board, but the successor is to be chosen at the next succeeding municipal election. *Commonwealth v. Evans*, 102 Pa. 394. The Act of May 4, 1905, P. L. 388, provides,

among other things, for the increase of the number of school directors by the court of common pleas, in cities to which the act applies, upon the petition of the councils.

16 June 1891.

How certain districts may be exempted from certain provisions of act.

Certificate of non-acceptance to be filed.

Provisions of act may be subsequently accepted.

Id. § 2.

Effect of act as to repeal.

11 June 1895.  
§ 1. P. L. 108.

Controllers not to hold salaried offices under board.

Id. § 2.

Penalty for payment of persons employed contrary to act.

numbered wards at said first election to serve for two years, and those from odd-numbered wards for four years; thereafter, every two years alternately they shall elect one each to serve for four years; *Provided further*, That none of the provisions of this act shall be applicable to the election of directors or controllers of the public schools, to the organization of the school board, to the election of school treasurer or of any other officer of said board, to the receiving and collection of school taxes in any city of the third class constituting one school district; but the said district shall be governed by laws heretofore enacted, applicable to the same, if the acceptance of this act, required by the fifty-seventh section hereof, shall be accompanied by a certificate from the school district, signed by the proper officers thereof expressing its desire to retain the laws governing it independent of this statute, otherwise this act shall govern the same; *And provided further*, That it shall be lawful for such board, in its discretion, by a vote of its members as aforesaid, from time to time, to accept any of the provisions of this act regulating school matters, and after such acceptance, duly recorded on the minutes of said board, said provisions so accepted shall be the law of such district.

3. This act shall not operate to repeal any act or part of an act heretofore passed, except in so far as the same may affect the representation in boards of school controllers in cities of the third class.<sup>1</sup>

4. From and after the passage of this act it shall not be lawful for any director or member of the board of school control in any city of the third class, within this commonwealth, to hold the office of secretary of said board, or to be employed by said board, while a member thereof, in any capacity in which there is any compensation attached.<sup>2</sup>

5. Any officer wilfully drawing any warrant, or passing any voucher, for the payment of any person elected, or employed contrary to the provisions of section one of this act, shall be guilty of a misdemeanor, and on conviction thereof be punished by a fine not exceeding one thousand dollars, and imprisonment not exceeding one year, or both, or either, at the discretion of the court.

## II. Oath of Controllers.

16 April 1891.  
§ 1. P. L. 22.

Controllers to be sworn.

6. All persons elected to the office of school director after the passage of this act, in the commonwealth of Pennsylvania, shall, before entering upon the duties of such office,

<sup>1</sup> The above Act of 1891 is an amendment to sec. 41 of the Municipal Act of May 23, 1874, P. L. 254. The Act of May 23, 1889, P. L. 274, "constituting each city of the third class a single school district, providing for the election of its school controllers, the levy and collection of taxes and management of its affairs,"

was held to be unconstitutional in *Commonwealth v. Reynolds*, 137 Pa. 389. The Act of 1891 is constitutional. *Commonwealth v. Gilligan*, 195 Pa. 504. See also *Commonwealth v. Guthrie*, 203 Id. 209; *Commonwealth v. Middleton*, 210 Id. 582.

<sup>2</sup> This section is valid. *Commonwealth v. Baker*, 13 Dist. R. 448.

take and subscribe to an oath or affirmation that he will support the constitution of the United States, and the constitution of the commonwealth of Pennsylvania, and the laws thereof; that he has used no unlawful means to procure his election to said office, and that he will discharge the duties of said office, for the district in which elected, faithfully and impartially, and to the best of his understanding and ability; which oath or affirmation shall be taken before a justice of the peace, notary public, or some other officer authorized to administer oaths,<sup>1</sup> and a copy of the same shall be entered upon the minutes of the board of school directors of the proper district.

<sup>16 April 1891.</sup>  
Form of oath.

Before whom  
oath to be  
taken.  
Copy to be  
filed.

7. On and after the passage of this act it shall be lawful for school directors in the various school districts in this commonwealth to qualify each other, by oath or affirmation, that they will faithfully discharge the duties of said office, and that they be authorized to certify the same to the proper authorities.

<sup>25 June 1895.</sup>  
§ 1. P. L. 284.  
Controllers  
may administer  
oath to each  
other.

8. In the organization of a school board it shall be the duty of the person chosen to act as secretary to qualify the person chosen to act as president, and the president in turn shall qualify all the other members of said board.

Id. § 2.  
Secretary to  
qualify president.

### III. Bond of Secretary.

9. Hereafter, every secretary of the board of school control in cities of the third class within this commonwealth shall be required, before entering upon his duties, to give a bond, with two approved sureties, in the sum of two thousand dollars, conditioned for the faithful performance of the duties of the office, and the proper accounting for all money, books and vouchers that may come into his possession.

<sup>25 June 1895.</sup>  
§ 1. P. L. 178.  
Secretary to  
give bond.  
Amount.  
Condition.

### IV. School Treasurer.

10. The city treasurer shall ex-officio be school treasurer, and before entering upon the duties of his office shall give bond to the school directors conditioned for the faithful performance of his duties, in such amount as the board shall direct, and with such sureties as shall [be] by them approved, and shall also, before he enters upon his office, take and subscribe an oath or affirmation of like nature as is hereinbefore prescribed for the city treasurer.<sup>2</sup>

<sup>23 May 1874.</sup>  
§ 42. P. L. 256.  
City treasurer  
to be school  
treasurer.  
To give bond  
to board.  
Oath.

### V. School Taxes.

11. The annual assessments of school taxes shall be completed on or before the first day of June in each and every

<sup>23 May 1874.</sup>  
§ 43. P. L. 256.

<sup>1</sup> See *infra* 7, 8.

<sup>2</sup> The separate office of school treasurer in cities of the third class was not abolished by this act; the city treasurer, in addition to his salary as such, is entitled

to such compensation in the capacity of school treasurer as the board of school controllers may determine. *Scranton School District v. Simpson*, 133 Pa. 202.

23 May 1874.

Assessment and  
collection of  
school taxes.Penalties upon  
unpaid taxes.Appointment  
of collectors.Funds to be  
disbursed on  
warrant.25 May 1897.  
§ 1. P. L. 85.School taxes to  
be levied on  
city assess-  
ment.

Id. § 2.

Certification of  
assessment to  
board.

year,<sup>1</sup> and upon the duplicate or duplicates having been made as directed by the said board of school controllers, the same shall be placed in the possession of the treasurer, who shall collect and receive said taxes in the manner hereinbefore provided for the collection of city taxes; and the said school taxes unpaid after the first day of August and the first day of October in each and every year, shall have the same additional sum per centum added thereto, as is hereinbefore provided in the case of unpaid city taxes after the first day of October in each and every year; said duplicates shall be placed in the hands of collectors to be appointed as directed in section thirty-eight of this act; the said taxes shall be applied only to the purposes of said school district, and be disbursed only on the warrant of the president and secretary of the board of school controllers, countersigned by the city controller.

12. In cities of the third class, where the school district comprises the same territory as the city, the taxes for school and school building purposes shall be levied on the assessment made for city purposes.

13. The city clerk, or other competent person authorized by city council, shall make for the use of the school board a true copy of the completed assessment, and shall duly certify the same to the said board.<sup>2</sup>

#### VI. Sinking Fund.

23 May 1874.  
§ 44. P. L. 256.Sinking fund  
for payment of  
funded debt.Rate of tax  
therefor.Application  
of tax.

Proviso.

14. For the purpose of creating a sinking fund for the gradual extinguishment of the bonds and funded debt of the respective school districts in cities of this commonwealth, the school controllers of each thereof shall annually (until payment of the bonds and funded debt be fully provided for) levy and collect a tax of not less than one mill, and not exceeding three mills, upon the assessed value of the taxable property of each of said cities, which shall be paid into the school treasury, and shall be applied towards the extinguishment of said bonds and funded debt, in the order of priority of the date of its issue, and to no other purpose whatever; *Provided*, That the whole tax of such school district for any one year shall not exceed the entire rate now allowed by law for school and building purposes.<sup>3</sup>

<sup>1</sup> See *infra* 12, 13, that the taxes are to be levied upon the city assessment.

<sup>2</sup> This act is constitutional, and applies to cities of the third class whether, it seems, such cities have accepted the school provisions of the Act of May 23, 1874, or not. *Erie School District v. Smith*, 195 Pa. 515.

<sup>3</sup> See title "Indebtedness" for acts governing the manner of increasing the indebtedness of school districts and other municipalities. Numerous acts, some applying to school districts in cities of the third class, and some to school districts in general, authorize the funding of exist-

ing indebtedness. The Acts of May 19, 1897, P. L. 76, and May 25, 1897, P. L. 91, validate the indebtedness of such municipalities incurred in excess of two per centum and less than seven per centum of the assessed valuation, or under an irregular form of election ballot.

The Act of May 5, 1885, P. L. 15, authorized the election triennially, on the first Tuesday of May, by the school directors of any city, borough or township having a population of over five thousand inhabitants, of a superintendent, whose duties are such as are prescribed by secs. 7-10 of the Act of April 9, 1867, P. L. 53.

## Scientific Institutions.

1. Cities may establish institutions for scientific and educational instruction. Acquisition of property. Trustees.

1. The city councils of any city, with the approval of the mayor or recorder thereof, may establish in such city institutions authorized to collect and hold certain educational and economic collections, the object of each being the scientific, educational and economic instruction of the public concerning commerce, manufacturing, mining and agriculture; said institutions to have power to purchase or accept by gift any real estate, money or personal property necessary for their use and promotion, and power to use, convey or transfer the same, as if they were bodies corporate, to be governed by boards of trustees, nominated, appointed and confirmed in such manner as the city councils may determine.<sup>1</sup>

<sup>25</sup> April 1908.  
§ 1. P. L. 314.

Cities may establish institutions for scientific and educational instruction.

Acquisition of property.

<sup>1</sup> This act is an example of the evolution of the legislative conception of the purpose of municipal government. What

connection the latter has with mining and agriculture is not clearly apparent.

## Sewers.

[See CORPORATE POWERS—DAMAGES—MUNICIPAL CLAIMS—STREETS—TAXES.]

1. Power of city to construct sewers without petition. How cost to be defrayed. Fee for sewer connections. Main and local sewerage. Assessment of abutting properties. Local, lateral and branch sewers. General sewerage system.

2. Equitable assessments for local and lateral sewers. Additional mode of assessing cost of sewers. Councils to appoint viewers. Assessments according to benefits. Report of viewers.

3. Report to be filed with city clerk. Notice of confirmation. Hearing of objections. When new assessments may be made.

4. Collection of assessments. Liens may be filed therefor. Interest thereon.

5. Repairs and house connections. Extent of connections. Notice to owners to make repairs and connections. Lien for cost thereof.

6. Municipalities may purchase sewer systems operated by private corporations.

7. How value thereof to be ascertained.

8. Cities to have right to enter lands to construct sewer system.

9. Right of entry upon contiguous lands.

10. Mode of compensation for damages. Court to appoint viewers. Report of viewers. Notice of view. Execution. Compensation of viewers and witnesses. Appeal to common pleas.

1. The councils of any city of the third class shall have power, without petition therefor, to construct and reconstruct, or cause to be constructed or reconstructed,<sup>1</sup> sewers of all kinds in its public streets, lanes, alleys, highways, and over and across public and private lands or property, and to pay the cost and expense thereof out of the general revenues, or special funds raised for said purpose, or to assess the same upon abutting property as hereinafter mentioned; and where the cost of constructing any sewer is paid

<sup>23</sup> May 1889.  
Art. XIII,  
§ 1. P. L. 312.

Power of city to construct sewers without petition.

How cost to be defrayed.

<sup>1</sup> When a sewer has once been constructed by the city and paid for by assessments on the property fronting on the street along which it is laid, it must be maintained and reconstructed, if necessary, by the city. *Eric v. Russell*, 148 Pa. 384. See also *Williamsport Sewers*, 18 Pa. C. C. R. 670; *Williamsport's App.*, 43 W. N. C. 141. The rule is the same where the original cost has been paid for by the city itself. *West Third Street Sewer*, 187 Pa. 565. A property owner who has paid a tax for the construction

of a sewer in front of his property cannot be assessed for the cost of another sewer parallel thereto in the same street. *Philadelphia v. Verner*, 8 Pa. C. C. R. 97. But the voluntary construction of a sewer, by permission of a board of surveys, at the expense of a property owner, is no defence against a claim by the city against such owner for the proportionate share of the expense of a sewer subsequently laid for the benefit of all the properties on the street. *City v. Cadwalader*, 20 W. N. C. 14.

23 May 1889.  
Art. XIII.

Fee for sewer  
connections.

Main and local  
sewerage.

Assessment of  
abutting prop-  
erties.

Local, lateral  
and branch  
sewers.

General sewer-  
age system.

Id. § 2.

Equitable as-  
sessments for  
local and lat-  
eral sewers.

Additional  
mode of as-  
sessing cost  
of sewers.

Councils to  
appoint view-  
ers.

for wholly from city funds, the respective city shall have authority to charge a reasonable fee for tapping or connecting with said sewer. In the construction of main sewers, or of any sewer which can be used in part for main sewerage purposes, in all cases where said sewer will also serve as a local sewer the said city is authorized to and may provide for assessing the abutting property with the local sewerage part thereof, according to the foot front, or the assessed valuation of the said property for city purposes, or according to benefits.<sup>1</sup> The cost of all main sewers or of any sewers used in part for main sewerage purposes, over and above the amount assessed for local sewerage, as above provided, shall be paid for from the city funds, as aforesaid. Councils may also provide that the cost and expense of local, lateral, branch and other sewers may be assessed against the abutting property, according to the foot front, or according to the assessed valuation thereof for city purposes, or according to benefits.<sup>2</sup> And it shall be lawful for any such city to construct or cause to be constructed a sewerage system, or sewers in streets, lanes, alleys and highways, with extensions thereof, and with lateral and branch sewers therefrom, in other streets, lanes, alleys and highways, and in public or private lands, at the same time, as part of the same improvement, and under the same contract, and the cost and expense thereof may be assessed as is herein provided.<sup>3</sup>

2. Where councils determine to construct local, lateral and other sewers, and to assess the cost and expenses thereof according to the foot front rule, they may provide for a reduction of one-half, or other equitable part or portion, from the frontage of the longest side of all corner lots, and at other places where, from the peculiar or pointed shape of the lots, an assessment for the full frontage would be inequitable and unequal. Where the councils determine to construct main, local, lateral or branch sewers, and to assess the cost and expense thereof according to benefits, in addition to the remedies which now or may hereafter exist for the assessment of the said cost and expense by viewers appointed by court, the said councils may appoint three disinterested freeholders as viewers,<sup>4</sup> who, or a majority of whom, shall assess the cost and expense of said sewers upon lands abounding or

<sup>1</sup> The decision as to whether a main sewer or a local sewer is necessary on a particular street or portion of a street, is a question of engineering and legislative judgment vested exclusively in councils, and not reviewable except under extraordinary circumstances. *Oil City v. Oil City Boiler Works*, 152 Pa. 348.

<sup>2</sup> See *Witman v. Reading*, 169 Pa. 375; *Park Avenue Sewers*, Id. 433; *Harrisburg v. Cummings*, 6 Dist. R. 437; *Harrisburg v. Brightbill*, Id. 438; *Michener v. Philadelphia*, 118 Pa. 535; *Harrisburg v. McCormick*, 129 Id. 213; *Scranton v.*

*Levers*, 200 Id. 56; *Scranton v. Beckett's Estate*, 17 Super. Ct. R. 296; *Allegheny City v. King*, 18 Id. 182; *O'Hara v. Scranton*, 205 Pa. 142; *Philadelphia v. Meighan*, 27 Super. Ct. R. 160. Where the property does not abut on the route designated by the ordinance a lien filed against it for the cost cannot stand. *Scranton v. Kingsbury*, 4 Dist. R. 555.

<sup>3</sup> This and the following section amended as above by the Act of March 30, 1903, § 5. P. L. 120.

<sup>4</sup> See *Harrisburg v. Mateer*, 4 Dist. R. 554.



abutting thereon, in proportion as nearly as may be to the benefits which may result to each lot or parcel of land.<sup>1</sup> Said viewers or a majority thereof shall report their assessment to the councils, in the manner set forth in the third section of said article thirteen, and said councils shall act thereon as in said article is provided.

23 May 1889.  
Art. XIII.

Assessments  
according to  
benefits.

Report of  
viewers.

3. Said viewers, or a majority of them, shall make report in writing specifying the amount assessed by them<sup>2</sup> upon each lot or parcel of land for main or local sewerage separately, and file the same with the city clerk within such time as the councils shall direct. After the report is filed, councils shall cause not less than ten days' public notice to be given in two newspapers of the city, if so many be published therein, of the object of such assessments, and that the same will come before them for confirmation at a time to be specified in said notice. Objections to the assessments shall be in writing and be filed with the city clerk, and may be heard before the city councils in joint convention at the time specified in the notice. Councils may, after hearing objections, modify, set aside or confirm said assessments. If councils set aside the first or any other assessment, they may appoint other viewers of the same qualifications as hereinbefore provided, and cause new assessments to be made, and the proceedings shall be the same as herein directed in case of the first assessment.

Id. § 3.

Report to be  
filed with city  
clerk.

Notice of con-  
firmation.

Hearing of  
objections.

When new as-  
sessments may  
be made.

4. After making assessments for sewerage of any kind, councils may direct that they be certified to the city treasurer, or to such party as said assessments may be assigned to, for collection; and if such assessments be not paid within such time as councils may by ordinance prescribe, it shall be lawful to file liens<sup>3</sup> therefor in the prothonotary's office of the proper county, as provided by this act, and said liens shall bear interest from the time the assessments were payable, at the rate of six per centum per annum, until paid.

Id. § 4.

Collection of  
assessments.

Liens may be  
filed therefor.

Interest  
thereon.

5. The city councils may provide by ordinance for the laying, renewing and repairing of all gas, water, steam, or other pipes, in any street or highway before the paving, repaving

Id. § 5.

Repairs and  
house con-  
nections.

<sup>1</sup>The fact that a landowner has constructed a private sewer sufficient for his property, with the consent of the city, will not relieve him from an assessment for the cost of a public sewer subsequently constructed along the street upon which his property abuts. *Philadelphia v. Odd Fellows' Hall Ass'n.*, 168 Pa. 105, and see *Philadelphia v. Nock*, 12 Super. Ct. R. 44; *Sewer on Evans Avenue*, 10 Dist. R. 633.

As to the measure of damages where a private sewer is taken for public use, see *Hays v. South Easton Borough*, 10 Super. Ct. R. 390.

<sup>2</sup>The cost of a sewer improvement is some evidence upon the subject of its value, but it is not conclusive. The viewers should ascertain the value upon the

basis of a *quantum valebant* of the materials and labor, and their report should be based thereon, and not upon the actual cost. *Twenty-eighth Street Sewer*, 158 Pa. 464.

<sup>3</sup>Under this article of the Act of 1889, the costs of the viewers are not authorized to be added to the expense of constructing the sewer. *Harrisburg v. Eby*, 16 Pa. C. C. R. 124. A lien for cost of sewer will not be stricken off because of a failure to state the date at which the assessment was due. *Scranton v. Arnt*, 148 Pa. 210. A sewer assessment is a tax, and cannot, therefore, be collected as an ordinary debt by a common law action unless such remedy is given by statute. *McKeesport v. Fidler*, 147 Pa. 532.

23 May 1889.  
Art. XIII.

Extent of con-  
nections.

Notice to own-  
ers to make re-  
pairs and con-  
nections.

Lien for cost  
thereof.

19 April 1901.  
§ 1. P. L. 82.

Municipalities  
may purchase  
sewer systems  
operated by  
private corpo-  
rations.

Id. § 2.  
How value  
thereof to be  
ascertained.

or repairing of the same, and for making the necessary house connections with said pipes, and also for the necessary house connections and branches with and leading into main or lateral sewers; *Provided*, That in no case, except as a sanitary measure, of which councils shall judge, shall they require such house connections to be extended further from such sewers, or from such gas, water, steam, or other pipes, than to the inner line of the curbstone of such street or highway. Councils may, after notice to all companies, corporations, persons, and owners affected, and default of compliance therewith, cause said pipes to be laid, renewed or repaired and said connections made, and collect the cost of laying and repairing all pipes and pipe connections from the companies, corporations or persons owning or operating the said gas, water, steam and other pipes, with interest; and the cost of the sewer connections shall be a first lien against the land for whose benefit such connections are made, and a specification of lien shall be filed therefor, and the lien and the proceedings thereon shall be as in the case of other municipal liens.<sup>1</sup>

6. From and after the passage of this act, it shall be lawful for any municipality, in which any corporation, created and existing under and by virtue of the laws of this commonwealth, have constructed and are maintaining, or may hereafter construct and maintain, sewers, culverts, conduits and pipes, with the necessary inlets and appliances, for surface, under surface and sewage drainage, to become the owners of such sewers, culverts, conduits and pipes with the necessary inlets and appliances for surface, under surface and sewage drainage, and the property of such company, by paying therefor the actual value of the same at the time of taking by the municipality.

7. In case of disagreement as to the amount to be paid, the same shall be ascertained in the same manner as damages are now ascertained for private property taken, injured or destroyed by reason of municipal improvements, under the act of the general assembly of the commonwealth of Pennsylvania, approved sixteenth May, one thousand eight hundred and ninety-one (Pamphlet Laws, 75), entitled "An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefitted, and the construction of sewers and payment of damages, costs and expenses thereof, including damages to private property resulting therefrom."<sup>2</sup>

<sup>1</sup> The section amended as above by the Act of May 18, 1901, § 29, P. L. 246.

<sup>2</sup> See title "Streets," III.

8. All cities of the commonwealth are hereby authorized and empowered, by themselves, their agents, artisans, engineers, and workmen, with their tools, appliances, instruments, carts, wagons, and other carriages, and beasts of burden or draft, from time to time and at all time hereafter, for the purpose of establishing and constructing a system of sewers and drains, to enter into such lands and enclosures, and public or private roads or highways, or over or through any private streams, as may be necessary, and to occupy, excavate and lay sewers and drains through the same, to maintain, alter and repair, doing as little damage to private property as possible, and making compensation to the owner or owners thereof in the manner hereinafter provided.

<sup>10 April 1905.</sup>  
§ 1 P. L. 126.  
Cities to have right to enter lands to construct sewer system.

9. That all cities, by their engineers and laborers, with their tools, appliances, instruments, carts, wagons, and other carriages, and beasts of burden or draft, may enter upon the land contiguous to the sewers constructed or in the course of construction, first giving notice to the owner or owners thereof, and from and thence take and carry away stone, earth, sand or other materials necessary to the construction, repair, or proper laying and repair of said sewers, doing as little damage as possible, and repairing any breaches they may make in the enclosures thereof, and making compensation to the owner or owners thereof in the manner hereinafter provided.

Id. § 2.  
Right of entry upon contiguous lands.

10. If the parties cannot agree upon the compensation to be made to the owner or owners of such land, enclosures, streams, public or private roads or highways, or to any person or persons who may be injured by the diversion, absorption, or pollution of any waters that may be used by said cities for the purpose aforesaid, it shall and may be lawful for either party to present a petition to the court of common pleas of the county in which the lands are situate, asking the court to appoint three viewers to view and assess, and report to the court, what damage, if any, has been done by the said city. The report to be filed at the next term of court; and notice of the time of the meeting of said viewers to be served upon all parties interested, at least five days before the day of view; which report, being confirmed by the court, judgment shall be entered thereon; and execution may issue in case of non-payment of the sum awarded; with two dollars per diem, and mileage, for each day the viewers were in attendance, and the same pay for witnesses as now provided for attendance at court; with power in the viewers to issue subpoenas, at the instance of either party, to compel the attendance of witnesses; the costs of the proceeding to be assessed and paid by the losing party; *Provided*, That either party may appeal to the common pleas court, within thirty days after such report shall have been filed in the prothono-

Id. § 2.  
Mode of compensation for damages.

Court to appoint viewers.

Report of viewers.

Notice of view.

Execution.

Compensation of viewers and witnesses.

Appeal to common pleas.

10 April 1905. tary's office of said county, in the same manner as appeals are allowed in other cases; upon which appeal such proceedings shall be had as are used in actions for damages at law.<sup>1</sup>

<sup>1</sup> By the Act of July 17, 1901, P. L. 668, municipalities are authorized to connect with sewers of adjoining munic-

palities, and by the Act of April 19, 1901, P. L. 82, they may purchase the sewer systems of private corporations.

## Sinking Fund.

1. Sinking fund for redemption of bonded indebtedness. How bonds to be stamped.  
2. Board of sinking fund commissioners,

of whom constituted. Commissioners to keep record. Report. How sinking fund to be invested.

23 May 1889.  
Art. XVIII.,  
§ 1. P. L. 830.

Sinking fund  
for redemption  
of bonded in-  
debtedness.

How bonds to  
be stamped.

Id. § 4.

Board of sink-  
ing fund com-  
missioners, of  
whom con-  
stituted.

Commissioners  
to keep record.

Report.

1. For the purpose of creating a sinking fund for the gradual extinguishment of the bonds and funded debt of the respective cities of the third class, the councils of each thereof shall, annually, until payment of the bonds and funded debt be fully provided for by special tax or otherwise, levy and collect, in addition to the other taxes of said corporation, a tax of not less than one-fourth of one mill,<sup>1</sup> and not exceeding three mills, upon the assessed value of the taxable property of each of said cities, which shall be paid into the city treasury, and shall be applied toward the extinguishment of bonds and funded debt,<sup>2</sup> whose payment is not otherwise provided for, and to no other purpose whatever; and said bonds, when purchased, shall be conspicuously stamped to show that they were purchased for the sinking fund of said city, and the interest on said bonds shall be collected and used in like manner with the taxes collected for said sinking fund.<sup>3</sup>

2. The mayor, treasurer and controller of each of said cities shall constitute a board of commissioners of the sinking fund of the city. The mayor shall be chairman and the controller secretary, and it shall be the duty of the board to keep the accounts of the sinking fund, and to see to the proper application, and superintend the investment of the same, in accordance with law and the directions of the city councils.<sup>4</sup> The said commissioners shall meet as often as may be necessary, keep a record of their proceedings, and shall, annually, in the month of January, make a report to councils of the condition and application of the fund, together with such

<sup>1</sup> The provisions of this section are substantially a re-enactment of the Act of May 23, 1874, sec. 11, P. L. 234, as modified (with respect to the minimum millage) by the Act of March 23, 1877, P. L. 35. The amendments to the Act of 1874, passed May 26, 1891, P. L. 126, and May 11, 1893, P. L. 42, would appear not to have affected the section in the text, and therefore, that in cities governed by the Act of 1889, the minimum rate of the sinking fund tax is still one-fourth of a mill, as above provided.

<sup>2</sup> The sinking fund tax may be applied to indebtedness created subsequently, as well as to that created prior to the adop-

tion of the constitution of 1874. *Wilkes-barre's App.*, 116 Pa. 246.

<sup>3</sup> The section amended as above by Act of May 16, 1901, § 39, P. L. 258. That the bonds of a city purchased and held for the sinking fund are not taxable for state purposes under the revenue laws, see *Commonwealth v. Martin*, 107 Pa. 185.

<sup>4</sup> It is the duty of a board of sinking fund commissioners to see that payments are duly made into the fund as required by law, and where they are not, to institute legal proceedings against the city to compel such payment. *Brooke v. Philadelphia*, 162 Pa. 123.

recommendations in relation thereto as they shall deem expedient; *Provided*, That councils shall not direct the investment of any moneys to the credit of the sinking fund, except in the loans of said cities respectively, the loans of the United States, or the loans of the state of Pennsylvania, and the income derived from any of said investments shall be credited and applied to the said several sinking funds respectively.

23 May 1889.  
Art. XVIII.

How sinking  
fund to be  
invested.

## Solicitor.

[See MUNICIPAL CLAIMS.]

1. Election of city solicitor. Qualifications. Term. Vacancies. Bond.
2. Solicitor to supervise law matters of city. To be custodian of certain papers.
3. Duties of city solicitor. When required to give written opinions.
4. Solicitor to keep city lien-docket. En-

tries therein. Duties of heads of departments regarding claims. Satisfaction of liens.

5. Solicitor to make monthly returns of collections to controller. Also of fees received. Salary.

1. The councils of each of said cities of the third class shall, in joint convention, on the second Monday of April, or as soon thereafter as practicable, elect by the vote of a majority of the members chosen to both branches,<sup>1</sup> one person learned in the law, and qualified to practice in the supreme court of this commonwealth, who shall be styled the city solicitor, and shall serve for the term of three<sup>2</sup> years from the first Monday of May succeeding his election, and until his successor shall be duly qualified. Vacancies in said office shall be filled by councils for the unexpired term. He shall give a lawful bond to the corporation with two or more sufficient sureties, to be approved by councils, in such sum as they shall by ordinance direct,<sup>3</sup> conditioned for the faithful performance of his official duties as the same are or may be defined by law or ordinance.

23 May 1889.  
Art. X., § 1.  
P. L. 804.

Election of  
city solicitor.

Qualifications.

Term.

Vacancies.

Bond.

2. The law matters of the city shall be under the superintendence, direction and control of the city solicitor, and no department of the city shall employ or retain any additional counsel in any matter or cause, except with the previous assent of councils. He shall keep his office within the city, and there shall be deposited and preserved therein all patents, deeds, leases, mortgages and other assurances of title, and all contracts, bonds, books and other evidences of debt belonging to the city, unless the councils shall otherwise provide or direct.

Id. § 2.

Solicitor to  
supervise law  
matters of  
city.

To be cus-  
todian of cer-  
tain papers.

3. The city solicitor shall prepare all bonds, obligations, contracts, leases, conveyances and assurances to which the city or any department thereof may be a party, as may be

Id. § 3.

Duties of city  
solicitor.

<sup>1</sup> See *Commonwealth v. Chittenden*, 2 Dist. R. 804, that in the joint convention for the election of the solicitor, as well as for certain other officers provided for by the act, the vote necessary to a choice is that of a majority of the members elected to both branches, without reference to the fact that a minority only of either branch be present.

<sup>2</sup> The section amended as above by making the term three years instead of two, by Act of May 16, 1901, § 26, P. L. 243.

<sup>3</sup> Until the amount is fixed by ordinance, the bond remains at ten thousand dollars, as prescribed by the Act of May 23, 1874, sec. 40, cl. 2, P. L. 253. *Commonwealth v. Chittenden*, 2 Dist. R. 804.

20 May 1880.  
Art. X.

When required  
to give written  
opinions.

Id. § 4.  
Solicitor to  
keep city  
lien-docket.

Entries  
therein.

Duties of  
heads of de-  
partments re-  
garding claims.

Satisfaction  
of liens.

directed by resolution or ordinance; shall commence and prosecute all and every suit or suits, action or actions, brought by the corporation for or on account of any of the estates, rights, trusts, privileges, claims or demands of the same,<sup>1</sup> as well as defend all actions or suits against the said corporation or any officer thereof, wherein or whereby any of the estates, rights, privileges, trusts, ordinances or acts of the corporation, or any department thereof, may be brought in question before any court in this commonwealth; and shall do all and every professional act incident to the office which he may be lawfully authorized or required to do by the mayor, or by any ordinance or resolution of the said councils. He shall, whenever required, furnish the councils, the committees thereof, the mayor, or the heads of departments, with his opinion in writing upon any question of law which may be submitted by either of them in their official capacities.

4. There shall be kept in the office of the city solicitor a city lien-docket, which shall be open to public inspection, and in which he shall cause to be entered all claims for curbing, paving or repaving sidewalks, assessments of damages and contributions for opening public streets, lanes and alleys, or parts thereof, for grading, paving and macadamizing the same, for water and lighting frontage tax, and water and lighting rates, sewerage, city taxes, and other matters that may be the subject of claim on the part of the city, which have been or shall be returned to the solicitor as remaining due and unpaid after the period prescribed by law or ordinance for the payment of such claims; and it shall be the duty of the head of each department, wherein any such claim shall originate, to furnish to the city solicitor, within the period prescribed by law or ordinance, a statement of all claims for curbing, paving, et cetera, which remain due or unpaid, a certified copy of which the said heads of departments shall at the same [time] furnish to the city controller. Upon payment of any lien or other debt of record due the city to any person authorized to receive the same, it shall be the duty of the city solicitor forthwith to enter satisfaction thereon.

<sup>1</sup> No one can institute an action in the name of the city except by the direction or with the subsequent approval of the corporation. *Philadelphia v. Strawbridge*, 4 W. N. C. 215. The city solicitor is the proper officer to bring suit, but authority to do so, except where prescribed by statute, can be given him only by resolution of councils. *Philadelphia v. Gas Trustees*, 12 W. N. C. 477, and see also *Lebanon v. Lebanon, etc., Street Railway Co.*, 1 Dist. R. 563; *Philadelphia v. McManes*, 15 Phila. R. 51; *Spring Brook Water*

*Supply Co. v. Pittston*, 10 Kulp 406. As to the inability of the solicitor to bind the city by verbal statements outside the line of his duty, see *Pebbles v. Pittsburgh*, 101 Pa. 304, and with reference to the responsibility of the city for the repayment of moneys conditionally deposited with him as its agent, *Murland v. Pittsburgh*, 189 Id. 371. As to right of city to direct an appeal as against the action of the mayor, see *Spellman v. Scranton*, 17 Super. Ct. R. 223.

5. The city solicitor shall, at least once in every month, make a return to the city controller, under oath or affirmation, of each item of moneys received by or through him or his assistants, by virtue of his office, or on account of any matters connected therewith, and immediately upon making such return he shall pay over the amount in his hands to the city treasurer. He shall in like manner pay into the city treasury all fees received by him in his official capacity, but this provision shall not be taken to include the judgment fee allowed him in his capacity of attorney under any act of assembly of this commonwealth. He shall receive a fixed annual salary, to be provided by ordinance.

23 May 1889.  
Art. X. § 5.

Solicitor to make monthly returns of collections to controller.

Also of fees received.

Salary.

## Streets.

[See ALLEYS—CORPORATE POWERS—DAMAGES—MUNICIPAL CLAIMS—SEWERS—TAXES—TOPOGRAPHICAL SURVEY—WATER AND LIGHTING DEPARTMENT.]

### I. JURISDICTION OF STREET IMPROVEMENTS.

1. Exclusive control of highways by municipal authorities and courts. Security for street improvements.

### II. STREET IMPROVEMENTS IN CITIES OF THIRD CLASS, ACT 1889.

2. Ordinance for street paving to be conclusive of fact that majority petitioned. Notice of petition to be published. Term "owner" defined.

3. Assignment of assessments to contractor. Improvement bonds.

4. Assessments may be made payable in installments. Interest on installments. On default, whole amount to be due. Advance payments.

5. How assessments to be collected.

### III. GENERAL PROVISIONS FOR STREET IMPROVEMENTS AND COLLECTION OF COST THEREOF.

6. Powers of municipal corporations to take lands and materials for improvements. Viewers to be appointed to assess damages and benefits. Notice of view to be given by publication and handbills.

7. Viewers to be sworn. How damages and benefits to be estimated. Notice to parties interested. Service of notice. Publication. When notice to be posted on premises. Councils may provide for service of notice. Report of viewers. Plan to be filed. Notice of filing of report. Contents of notice.

8. How and by whom damages to be paid. When damages may be assessed on properties benefited. Benefits not to exceed damages.

9. Viewers may be appointed before or after entry. Costs to be paid by corporation. Pay of viewers.

10. Security to be tendered to party claiming damages where no agreement can be made. On non-acceptance of security, same to be filed in court. Recovery thereon. Improvement to proceed.

11. Exceptions to report of viewers. Power of court to modify report. Confirmation of report. Decree. Appeal to superior or supreme court. Report to be conclusive

as to assessments. Appeal to court of common pleas. Trial of issue. How appeal to be taken. Report of viewers to be prima facie evidence of benefits. When no costs recoverable. Notices and orders. Pleadings. Appeal to higher court. Appeal not to prevent filing of liens.

12. Where proceedings discontinued prior to entry and within thirty days after filing of report, corporation not to be liable for damages assessed. To pay costs and actual damage only.

13. Action of court upon exceptions to report of viewers. When report may be confirmed in part.

14. Effect of appeal on confirmation of report. Assignments of error to be filed by appellant. Certificate of court. Subsequent proceedings. Date when decree to take effect, on appeal.

15. Consolidation of appeals.

16. Several parties may join in single appeal.

17. Act to apply to pending appeals. Specifications of error. Court to correct misdirected appeals.

18. Power to lay out streets and establish grades, and to construct bridges, sewers, drains, etc. Petition of majority of owners in number and interest requisite for grading, paving, curbing, macadamizing, etc. Appointment of viewers. Costs to be assessed on properties benefited. Deficiency to be paid by corporation. Proceedings to be as before provided.

19. Power to open, widen, straighten, extend or vacate streets. Petitioners to represent majority of owners in number and interest. Power to make street improvements without petition, by three-fourths vote of councils. How ordinance therefor to be passed. Copies of ordinance to be published.

20. Upon passage of ordinance, notice thereof to be given. Handbills to be posted. Contents of notice. Party interested may appeal to court of common pleas as to majority petitioning. Petition. Power of court to approve or quash proceeding. Estoppel of parties by decree. Interest on assessments. To be payable to treasurer.

21. Power to require laying and repair of sidewalks, boardwalks and curbstone. On default, cost to be assessed upon owner. Lien to be laid and collected.

22. General plan of streets and alleys.

Where to be filed. Streets on plan not to be altered without consent of councils. Plan not to be recorded until approved by councils. No damages to be recoverable for buildings erected on plotted streets.

23. Power to vacate unopened streets.

24. Proceedings.

25. Cost of paving and improving streets and highways.

26. Improvement bonds may be issued. How designated. Term of bonds. Interest.

27. When question of issuance of bonds to be submitted to electors.

28. Bonds not to be negotiated under par. Assessment on property benefited.

29. Assessments to be entered of record. To be first liens until paid. What record of assessment to contain.

30. Assessments to be payable in installments. Proceeds to go to sinking fund.

31. On default, whole amount to be due. How collectible.

32. Payments may be made in advance. Payment where property is subdivided.

33. Power to grade, pave, curb, macadamize and improve streets and alleys. How ordinance therefor to be enacted. Publication of ordinance.

34. Damages and benefits, how ascertained.

#### IV. DAMAGES AND COSTS.

35. Damages for opening or widening of street to include damages due to grade. Plan to be attached to report of viewers.

36. Court may make orders for payment of costs in road and street proceedings.

#### V. APPEALS.

37. Appeal to court of common pleas from quarter sessions in road and street damage cases. Trial by jury.

38. Appeal to be accompanied by affidavit.

### I. Jurisdiction of Street Improvements.

23 May 1874.  
§ 18. P. L. 235.

Exclusive control of highways by municipal authorities and courts.

Security for street improvements.

1. The municipal authorities and courts having jurisdiction in any city of this commonwealth, shall have exclusive control and direction of the opening, widening, narrowing, vacating and changing grades of all streets, alleys and highways within the limits of such city,<sup>1</sup> and may open or widen streets at such points and of such width as may be deemed necessary by such city authorities and courts, any private or special statute to the contrary notwithstanding; proceedings to be had in such cases as are now required by law. Streets commenced under any special authority shall be completed, unless otherwise decided by councils; and any of said cities may, with the consent of the courts of quarter sessions of the proper county, enter security for damages to private property by reason of street improvements, in such sum or sums as the said court may direct.<sup>2</sup>

### II. Street Improvements in Cities of Third Class, Act 1889.

23 May 1889.  
Art. XV.  
§ 26. P. L. 325.

Ordinance for street paving to be conclusive of fact that majority petitioned.

2. Where the paving of any street, lane or alley, or part thereof, has been petitioned for, the passage by councils of any ordinance directing the paving of any such street, lane or alley, or part thereof, shall be held to be conclusive of the fact that a majority in number of the persons owning property thereon, or that the persons owning a majority of the feet

<sup>1</sup> A city's construction of the lines and grades of its highways is not subject to the control of the courts. *McHale v. Transit Co.*, 37 W. N. C. 14. No abutting owner has a right to change the grade of a street without the consent of the municipality. *McCarthy v. Penna. Land, etc., Co.*, 5 Super. Ct. R. 641.

<sup>2</sup> So amended by Act of June 8, 1881, P. L. 68. See *East Grant Street*, 121 Pa. 596; *In Re Narrowing of Greenough Street*, 36 W. N. C. 545. The significant portion of the amendment is the addition of the words "any private or special statute to the contrary notwithstanding." This provision repealed all special or general acts prohibiting the opening of streets through cemeteries, and is not un-

constitutional as violating the obligation of contracts. Cities now possess the power thereunder to open streets through burial grounds upon payment of damages as provided by law. *Opening of Twenty-second Street*, 102 Pa. 108. Notwithstanding that proceedings for the opening of streets and the assessment of damages therefor are, by existing laws, in cities of the third class, under the jurisdiction of the court of common pleas, that of the quarter sessions may be invoked where the proceedings are at the instance of private persons, or in other cases where the city so elects. *Shanber v. Reading*, 133 Pa. 643. *Opening of Spring Street*, 112 Id. 253.



front thereon, as the case may be, have petitioned therefor;<sup>1</sup> <sup>23 May 1889.  
Art. XV.</sup> *Provided*, That no ordinance for the above named purpose so <sup>Notice of petition to be published.</sup> petitioned for, shall be passed until five days' notice of the improvement prayed for, with the names of the petitioners therefor, has been given in one newspaper published in the city.<sup>2</sup> The term owner or owners is hereby declared to mean <sup>Term "owner" defined.</sup> any person or persons, or bodies corporate, who may own or claim the property to be affected by such improvement or assessment, in whom is vested any estate in fee simple, fee tail, for life, a perpetual leasehold, or for a term of years, by lease or otherwise, not less than twenty years, a majority of the owners of an undivided property to constitute one person for the purposes of the petition.

3. In all contracts for improvements, the cost of which is <sup>Id. § 27.</sup> to be paid by assessments upon the property abutting or benefited, the city may enter into an agreement with the contractor that he shall take an assignment of such assessment in <sup>Assignment of assessments to contractor.</sup> payment of the amount due him under the terms of his contract, and in such case the city shall not be otherwise liable under such contract, whether said assessments are collectible or not,<sup>3</sup> or said city may issue improvement bonds based <sup>Improvement bonds.</sup> solely upon the assessments for any of said local improvements.<sup>4</sup>

4. Whenever any ordinance is passed providing for the <sup>Id. § 28.</sup> grading, paving or macadamizing of any street, lane or alley, <sup>Assessments may be made payable in installments.</sup> or part thereof, or for the construction of any sewer, the expense whereof is to be defrayed by local assessments as herein provided, it may be prescribed in such ordinance that the assessments may be paid in not more than ten equal installments, payable at such times as may be fixed by ordinance, the last thereof not to be more than ten years after the commencement of the work on the improvement for which it is assessed. The installments shall bear interest at the rate of <sup>Interest on installments.</sup> not more than six per centum per annum, commencing at such time as may be fixed by ordinance. If any of said installments shall remain unpaid for two months after the same <sup>On default, whole amount to be due.</sup> shall become due and payable, the whole of the assessment remaining unpaid shall be due and payable. Any person <sup>Advance payments.</sup> upon whom such assessment has been made may pay all, or as

<sup>1</sup> See *Scranton v. Jermyn*, 156 Pa. 107. The cost of repaving public streets for the benefit of the general public cannot be assessed upon and collected from the property abutting upon such streets. *Boyer v. Reading*, 151 Id. 185. Whether a petitioner may withdraw his name before councils have acted upon the petition, not decided. Id. A landowner who petitions for the paving of a street upon which his land abuts is subsequently estopped from denying the power of councils to do the paving. *Harrisburg v. Baptist*, 156 Pa. 526.

<sup>2</sup> The notice prescribed by Art. XIX., sec. 20 of the Act of 1887 (P. L. 256).

in the same terms as the above, held required to be published five days before the passage of the ordinance, but not necessarily five days before its introduction. *Merrifield v. Scranton* (C. P. Lackawanna), 5 Pa. C. C. R. 388.

<sup>3</sup> See *Gable v. Altoona*, 200 Pa. 15. As to defences against the enforcement of such assigned claims in the hands of the contractor, see *Erie v. Butler*, 120 Pa. 374; also *Breitnall v. Philadelphia*, 103 Id. 156; *Pepper v. Philadelphia*, 114 Id. 96.

<sup>4</sup> As to liability of city on improvement bonds irregularly issued, see *Gable v. Altoona*, 200 Pa. 15.

23 May 1889.  
Art. XV.

Id. § 29.

How assessments to be collected.

many as he chooses, of such installments, before the same are due.<sup>1</sup>

5. All assessments made in pursuance hereof shall be collected in the same manner and with the same penalties as are provided in this act for the collection of special taxes and assessments upon real estate; and it shall be lawful for councils to make and collect assessments upon real estate for the purposes aforesaid before the work is contracted for.<sup>2</sup>

### III. General Provisions for Street Improvements and Collection of Cost Thereof.

16 May 1891.  
§ 1. P. L. 75.

Powers of municipal corporations to take lands and materials for improvements.

Viewers to be appointed to assess damages and benefits.

Notice of view to be given by publication and handbills.

6. All municipal corporations of this commonwealth shall have power, whenever it shall be deemed necessary in the laying out, opening, widening, extending, grading or changing grade or lines of streets, lanes or alleys, the construction of bridges and the piers and abutments therefor, the construction of slopes, embankments and sewers, the changing of water courses or vacation of streets or alleys, to take, use, occupy or injure private lands, property or material, and in case the compensation for the damages or the benefits accruing therefrom have not been agreed upon, any court of common pleas of the proper county, or any law judge thereof in vacation, on application thereto by petition by said municipal corporation, or any person interested, shall appoint three discreet and disinterested freeholders as viewers, and appoint a time, not less than twenty nor more than thirty days thereafter, when said viewers shall meet upon the line of the improvement and view the same and the premises affected thereby. The said viewers shall give at least ten days' notice of the time of their first meeting by publication in one or more newspapers of said corporation of the county in which it is situate, and where the publication is in more than one newspaper one of said newspapers may be in the German language, and by hand bills posted upon the premises, or otherwise, as the said court shall direct, having regard to the circumstances of the case.<sup>3</sup>

<sup>1</sup> The section amended as above by Act of May 16, 1901, § 34, P. L. 251.

<sup>2</sup> Under this act the city cannot maintain an action of assumpsit against a landowner to recover the cost of paving a street. *Scranton v. Sturges*, 202 Pa. 182, and see *Franklin v. Hancock*, 204 Id. 110.

<sup>3</sup> The section amended as above by Act of June 12, 1893, P. L. 459. The act is repealed in so far as it provides for the extent of the lien for taxes and municipal improvements before or after filing of claim, or for the practice or procedure in relation to enforcement of the same after filing, by the Act of June 4, 1901, § 42, P. L. 379, 386, 400. The above act is a general law applying to all the cities of the commonwealth. There is no inconsistency between its provisions and those of the Act of May 23, 1889, for the government of cities of the third class, Art. V., sec. 3, cl. X., and the latter is not repealed by it. Under both acts, in respect to an improvement by grading, the basis of liability

of the lot owner is the same—the benefit accruing to his property. In the rural parts of the city the Act of 1891 provides a new and the only mode of reaching the lot owners directly. In the built-up portions, the act provides an additional mode of reaching them, viz., on the basis of benefits, whilst they were previously liable only according to frontage. *Hand v. Fellows*, 148 Pa. 456; *Commonwealth v. George*, Id. 463; *Beltzhoover Borough v. Beltzhoover's Heirs*, 173 Id. 213. See, also, *Hanover Borough's App.*, 150 Id. 202; *Seaman v. Borough of Washington*, 172 Id. 467. The act as amended appears to supply the provisions of the Act of May 26, 1893, P. L. 139. See in this connection the Act of May 26, 1893, P. L. 154, authorizing cities to purchase and condemn bridges erected over streams dividing sections of their territory, and prescribing the manner in which compensation shall be made therefor.

7. The said viewers, having been duly sworn or affirmed <sup>16 May 1891.</sup> faithfully, justly and impartially to decide, and true report <sup>§ 2</sup> to make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire in pursuance of the provisions of this act, and having viewed the premises or examined the property, shall hear all parties interested and their witnesses, and shall estimate and determine the damages for property taken, injured or destroyed, to whom the same is payable; and, having so estimated and determined the damages, together with the benefits as hereinafter mentioned, they shall prepare a schedule thereof, and give notice to all parties to whom damages are allowed, or upon whom assessments for benefits are made, of a time, not less than ten days thereafter, and of a place where said viewers will meet and exhibit said schedule and hear all exceptions thereto and evidence. Notice of the time and place of said meeting shall be given, in the manner provided by law for the service of a summons in a personal action, upon all parties allowed damages or assessed benefits, as shown by said schedule, if the said parties can be found in the municipality, or upon an adult person residing upon the property affected by the assessment in case the owner or reputed owner cannot be found, and to all others by publication in the newspaper or newspapers in which the first notices of said view were published. When no service is made upon the owner, reputed owner, or upon an adult person residing upon the property affected, said notice, where publication thereof has also been made, shall be deemed to have been properly served if tacked or conspicuously posted on the premises. Councils, by ordinance, may provide by whom the notice provided by this act shall be posted, given and served, and fix the compensation for said service. After making whatever changes are deemed necessary, the said viewers shall make report to the court, showing the damages and benefits allowed and assessed in each case, and file therewith a plan, showing the improvement, the properties taken, injured or destroyed, and the properties benefited thereby. When said report is filed, notice thereof shall be given by publication once in the newspaper or newspapers publishing the notice provided for in section one of this act. Said notice shall state the date of filing of the report, and shall contain a schedule of the damages and benefits as shown therein; and shall further state that unless exceptions thereto be filed within thirty days from the date of filing, the said report will be confirmed absolutely.<sup>1</sup>

Viewers to  
be sworn.

How damages  
and benefits to  
be estimated.

Notice to  
parties inter-  
ested.

Service of  
notice.

Publication.

When notice  
to be posted  
on premises.

Councils may  
provide for  
service of  
notice.

Report of  
viewers.

Plan to be  
filed.

Notice of fil-  
ing of report.

Contents of  
notice.

<sup>1</sup> The section amended as above by Act of April 2, 1903, § 1, P. L. 124. By the Act of May 23, 1891, P. L. 109, petitions for the assessment of street damages, where the same have not been assessed by the viewers, may be filed in the quarter

sessions within six years from the confirmation of the report, or of the entry of the decree for opening, or from the date of notice of the intended opening; all claims thereafter being barred.

18 May 1891.  
§ 6.

How and by  
whom damages  
to be paid.

When damages  
may be as-  
sessed on prop-  
erties bene-  
fited.

Benefits not  
to exceed  
damages.

Id. § 4.

Viewers may  
be appointed  
before or after  
entry.

Costs to be  
paid by cor-  
poration.

Pay of viewers.

Id. § 5.

Security to be  
tendered to  
party claiming  
damages where  
no agreement  
can be made.

On non-accept-  
ance of secu-  
rity, same to  
be filed in  
court.

8. The payment of damages sustained by the making of the improvements aforesaid, or by the vacation of any public highway, may be made, either in whole or in part by the corporation, or in whole or in part by assessments upon the property benefited by such improvements, as said viewers may determine and the court approve, and in the latter case the viewers appointed to assess damages, having first estimated and determined the same apart from benefits, shall also assess the said damages, or so much thereof as they may deem just and reasonable, upon the properties peculiarly benefited by the improvement, including in the said assessment all properties for which damages have been allowed, if, in their judgment, such properties will be benefited thereby, and shall report the same to the said court.<sup>1</sup> The total assessments for benefits shall not exceed the total damages awarded or agreed upon.

9. The viewers provided for in the foregoing sections may be appointed before or at any time after the entry, taking, appropriation or injury of any property or materials for constructing said improvements. The costs of the viewers, and all court costs incurred in the proceedings aforesaid, shall be defrayed by the said municipal corporation, and each of the said viewers shall be entitled to a sum not exceeding five dollars per day for every day necessarily employed in performance of the duties herein prescribed.

10. In all cases where the parties have not agreed upon the amount of damages claimed, or where, by reason of the absence or legal incapacity of the owner or owners, no such agreement can be made, for the lands, property or materials to be taken, occupied or injured, the municipal corporation may tender sufficient security to the party claiming or entitled to any damages, or to the attorney or agent of any person absent, or to the agent or other officers of a corporation, or to the guardian or committee of any one under legal incapacity, the condition of which shall be that the said municipal corporation shall pay or cause to be paid such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon by the parties, or assessed in the manner provided for by this act. In case the party or parties claiming damages refuse or do not accept the security so tendered, the said municipal corporation shall then give the party, his or their agent, attorney, guardian or committee, a written notice of the time when the same will be presented for filing in the court, and thereafter the said mu-

<sup>1</sup> The properties which can be assessed for benefits are such only as are entitled to damages—that is, those which are directly along the line of the proposed improvement. See *Barton Street*, 33 W. N. C. 445; *Morewood Ave.*, 159 Pa. 20; *Verrona Borough's App.*, 4 Super. Ct. R. 608; *In Re Orkney Street*, 9 Id. 604;

*Fifty-fourth Street*, 165 Pa. 8; *Park Ave. Sewers*, 169 Id. 433; *Rankin v. Pittsburgh*, 7 Dist. R. 489; *Colwyn Borough v. Tarbottom*, 9 Super. Ct. R. 414; *Mill Creek Sewer*, 196 Pa. 183; *Grant Street*, 17 Super. Ct. R. 459; *Scranton v. Koehler*, 200 Pa. 126; *Harrisburg v. McPherran*, Id. 343.

municipal corporation may present said security to the court of <sup>18 May 1891.</sup> common pleas of the county where the lands or other property are situated, and, if approved, the security shall be filed in said court for the benefit of those interested, and recovery may be had thereon for the amount of damages assessed, if the same be not paid, or cannot be made by execution on the judgment in the issue formed to try the question, and upon the approval of said security said municipal corporation may proceed with the improvement. <sup>Recovery thereon.</sup> <sup>Improvement to proceed.</sup>

11. Upon the report of said viewers, or any two of them, <sup>Id. § 6.</sup> being filed in said court, any party interested may, within <sup>Exceptions to report of viewers.</sup> thirty days thereafter, file exceptions to the same; and the court shall have power to confirm said report, or to modify, <sup>Power of court to modify report.</sup> change or otherwise correct the same, or change the assessments made therein, or refer the same back to the same or new viewers, with like power as to their report.<sup>1</sup> When said report is first filed in court, the prothonotary thereof shall mark the same confirmed nisi, and in case no exceptions are filed thereto within said thirty days, he shall enter a decree <sup>Confirmation of report.</sup> (as of course) that said report is confirmed absolutely. <sup>Decree.</sup> Within thirty days after the confirmation, modification, changing or correcting of any report, any interested party may appeal from the said decree to the superior court or to the supreme court, as the case may be.<sup>2</sup> The said report, when and as finally confirmed, shall be conclusive as to any assessments made therein to pay the costs and expenses of any sewer, street or other improvement. And within thirty days after said report is filed in court, as aforesaid, any party whose property is taken, injured or destroyed, or who is assessed benefits to pay damages for property taken, injured or destroyed, may appeal to the court of common pleas, <sup>Appeal to superior or supreme court.</sup> and demand a trial by jury, according to the course of the common law.<sup>3</sup> Every appellant shall state in the appeal <sup>Report to be conclusive as to assessments.</sup> the grounds upon or for which the appeal is taken, and the same shall be signed by the party or parties taking the appeal, or by his or their agent or attorney; and shall be accompanied by an affidavit of the party appellant, or of his or their agent or attorney, that the appeal is not taken for the purpose of delay, but because the appellant firmly believes that injustice has been done. Upon the trial of any such appeal in court, the report of the viewers, as finally approved, confirmed, modified or changed by the court, shall be <sup>Appeal to court of common pleas.</sup> prima facie evidence of the benefits as therein mentioned; <sup>Trial of issue.</sup> and in case the party appellant does not obtain a verdict more favorable than was the report of viewers, as finally con- <sup>How appeal to be taken.</sup>

<sup>1</sup>The right of appeal from an assessment for the cost of making a sewer does not lie under this act. The remedy is by filing exceptions to the report of viewers, as above provided. *Fifth Sewer District, Gibb's App.*, 5 Dist. R. 303; the party

aggrieved has no standing in equity. *Thrall v. Williamsport*, 18 Pa. C. O. R. 330.

<sup>2</sup>See *Soranton Sewer*, 213 Pa. 4.

<sup>3</sup>See *Mount Pleasant Ave.*, 171 Pa. 38; *Beechwood Ave. Sewer*, 179 Id. 494.

16 May 1891.

When no costs  
recoverable.Notices and  
orders.

Pleadings.

Appeal to  
higher court.Appeal not to  
prevent filing  
of liens.

firmed, modified or changed, the said appellant shall not recover any costs on the appeal. The said court of common pleas shall have power to order what notices shall be given in connection with any part of said proceedings, and make all and such orders as it may deem requisite, and may by rule or otherwise, prescribe the form of the pleadings. After verdict and final judgment, either party may have an appeal to the superior court or supreme court, as in other cases. No appeal taken under this act shall prevent the filing of liens by any municipality for any assessment made by said report; but, upon the final termination of the issue, the court shall make such order as to the lien filed as shall appear right and proper.<sup>1</sup>

Id. § 7.

Where proceed-  
ings discontin-  
ued prior to  
entry and  
within thirty  
days after filing  
of report, cor-  
poration not to  
be liable for  
damages as-  
sessed.

To pay costs  
and actual  
damage only.

12. In case any such municipal corporation shall repeal any ordinance passed, or discontinue any proceeding taken, providing for any of the improvements mentioned in the preceding sections prior to the entry upon, taking, appropriation or injury to any property or materials, and within thirty days after the filing of the report of viewers assessing damages and benefits, the said municipality shall not thereafter be liable to pay any damages which have been or might have been assessed, but all costs upon any proceeding had thereon shall be paid by said municipal corporation, together with any actual damage, loss or injury sustained by reason of such proceedings.<sup>2</sup>

18 April 1905.

§ 1. P. L. 198.

Action of court  
upon excep-  
tions to report  
of viewers.

13. Where any exceptions are filed to any report of viewers, made and filed in court in pursuance of the act, entitled "An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and the payment of the damages, costs and expenses thereof, including the damages to private property resulting therefrom," approved the sixteenth day of May, Anno Domini one thousand eight hundred ninety-one, to which this act is supplementary, and the said exceptions affect the entire report, the same shall not be confirmed absolutely as to any part thereof until the said exceptions have been finally dis-

<sup>1</sup> The section amended as above by Act of April 2, 1903, § 2, P. L. 126.

<sup>2</sup> This section did not apply to pending cases. *Moravian Seminary v. Bethlehem*, 153 Pa. 583; *Myers v. South Bethlehem*, 149 Id. 85. As to the proper mode of procedure for the recovery of the costs and damages, see *Opening of Seventieth Street*, 7 Dist. R. 113. Resolutions and ordinances directing the opening and grading of streets may be subsequently

modified and repealed without any resulting liability to property owners for loss of prospective advantages contingent upon the carrying of the proposed improvement into effect. *Brill Co. v. Philadelphia*, 167 Pa. 1. As to effect of repeal upon vested rights of property owners, see *Erie v. Griswold*, 5 Super. Ct. R. 132; 184 Pa. 435; and as to payment of counsel fees, see *Allegheny City v. Dietrich*, 8 Dist. R. 570.

posed of by the court; but when exceptions are filed that <sup>18 April 1905.</sup> only go to or affect some particular assessment of benefits or damages, and which in the consideration and final disposal thereof will not affect the assessments made against or in favor of other parties, in such case it shall be lawful for the court, at any time after the report has been filed thirty days, by decree, order or rule to confirm all such assessments as to which no exceptions have been filed. <sup>When report may be confirmed in part.</sup>

14. Where any appeal is taken to the action of any court confirming any viewers' reports or any part thereof, to which exceptions have been filed and overruled, such appeal, if taken for any manner or thing which will or may affect the entire report, shall have the effect of suspending the absolute confirmation of the entire report until the appeal is finally disposed of by the appellate court; but where the appeal is to matters and things which do not go to or affect the entire report or affect other assessments, any such appeal shall only affect the particular assessment or cause as to and for which the appeal is taken. In order to determine whether any appeal affects the entire report or any particular assessment, it shall be the duty of the appellant to file in the court below, before or at the time he files his writ of certiorari, a copy of his specifications or assignments of error, or grounds of appeal, and, upon the request of the proper municipality or any interested party, the court below, or a judge thereof in vacation, shall certify whether the said appeal, so taken, does not affect the entire report, and the said certificate shall be conclusive on said question. Where the court or judge certifies that the appeal taken will affect the entire report, no further proceedings shall be taken in the court below until after the final action of the appellate court; but where the said court or judge certifies that the appeal taken will only affect the particular assessment of benefits or damages, as the case may be, then the confirmation of all other assessments, as to which no appeal has been taken, shall be deemed and taken to be final and absolute. If on any appeal the action of the court below, confirming any report or any assessment, is affirmed, the date of the decree or judgment of the appellate court shall be deemed and taken as the day on which said report or assessment was finally confirmed. <sup>Id. § 2.</sup> <sup>Effect of appeal on confirmation of report.</sup> <sup>Assignments of error to be filed by appellant.</sup> <sup>Certificate of court.</sup> <sup>Subsequent proceedings.</sup> <sup>Date when decree to take effect, on appeal.</sup>

15. Where any appeal is taken to the supreme court from the action of any court confirming the report of viewers, or any part thereof, and an appeal is also taken to the superior court from the same report or any part thereof, and the appeals in both cases are substantially the same, and in which the same questions are involved, it shall be lawful for the superior court to certify the said appeal to the supreme court, to be heard with the other appeals from the same report, involving the same questions. And it shall be lawful for the supreme court to consolidate the said appeals, and to hear the <sup>Id. § 3.</sup> <sup>Consolidation of appeals.</sup>

18 April 1905. same as one case. And where several appeals are taken from the confirmation of the same report, either to the superior or the supreme court, the appellate court may consolidate the appeals, where the grounds of appeal are similar and the same questions involved.

Id. § 4.  
Several parties may join in single appeal. 16. It shall be lawful for the several parties or persons to unite and join in a single appeal from the confirmation of the report of viewers, or any parts thereof, either to the superior or supreme court, where the grounds of appeal are similar and the same questions are involved; but the uniting of the appellants shall not unite the amounts, or change the jurisdiction. When the appeal, if taken by each appellant singly, would be to the superior court, then the joint appeal shall be to the said court; but if the appeal of any one joint appellant, if taken singly, would be to the supreme court, then the joint appeal shall be to the said court. If any appeal has been taken to the supreme court, any other party, without regard to the amount involved, may appeal to the same court, and join in the said appeal, in case the grounds of appeal are similar and the same questions are involved.

Id. § 5.  
Act to apply to pending appeals. Specifications of error. Court to correct misdirected appeals. 17. This act shall apply to appeals already taken, where the same have not been argued or disposed of. The proper municipality or any party interested may, by notice or rule upon the appellant, in any case, cause a statement or copy of the specifications of error or grounds of appeal to be filed in the court below; upon which the said court, or judge thereof in vacation, shall certify whether the appeal taken does or does not affect the entire report, in the manner and with the effect as set forth in section two of this act. Should any appeal, under this act or the act to which this is a supplement, be made to the wrong appellant court, it shall be the duty of the said court to certify the appeal to the court to which the appeal should originally have been taken.

16 May 1891.  
§ S. P. L. 78.  
Power to lay out streets and establish grades, and to construct bridges, sewers, drains, etc. Petition of majority of owners in number and interest requisite for grading, paving, curbing, macadamizing, etc. Appointment of viewers. 18. Every municipal corporation shall have power to lay out, establish or re-establish grades of streets and alleys [or parts thereof], and to construct bridges, piers and abutments therefor, and sewers and drains in any street or alley, or through or on or over private property. Every municipal corporation shall also have power, upon the petition of a majority of property owners in interest and number abutting on the line of the proposed improvement, to be verified by affidavit of one or more parties to said petition (a majority in interest of owners of undivided interests in any piece of property to be deemed and treated as one person for the purposes of petition) to grade, pave, curb, macadamize and otherwise improve any public street or public alley [or part thereof] within its corporate limits, or which may be, in whole or in part, boundaries thereof. On petition viewers shall be appointed as provided in first section of this act, who shall assess the costs and expenses of the sewer, or grading, pav-



ing, curbing, macadamizing or other improvement of each street or alley [or part thereof within its corporate limits], upon the property benefited, according to benefits,<sup>1</sup> if sufficient can be found, but if not, then the deficiency, when finally ascertained, shall be paid by the municipal corporation, and the proceedings of said viewers, and the proceedings on their report, shall be as provided in this act for viewers and reports of viewers in cases of property taken, injured or destroyed.<sup>2</sup>

<sup>16 May 1891.</sup>

Costs to be assessed on properties benefited.

Deficiency to be paid by corporation.

Proceedings to be as before provided.

19. Every municipal corporation shall have power to open, widen, straighten or extend streets or alleys, or parts thereof, within its limits,<sup>3</sup> and to vacate streets or alleys, or parts thereof, upon the petition of a majority in number and interest of owners of property abutting on the line of the proposed improvement,<sup>4</sup> to be verified by the affidavit of one or more parties, as in the preceding section; a majority in interest of owners of undivided interests in any piece of property to be deemed and treated as one person for the purposes of petition. Every municipal corporation shall have power, whenever the councils or authorities thereof shall deem it necessary, to open, widen, straighten or extend streets or alleys, or parts thereof, and to vacate streets or alleys, or parts thereof, without any petition of property owners; *Provided*, The ordinance or ordinances authorizing the same shall be adopted and enacted by the affirmative vote of three-fourths of the members-elect composing the councils of such municipality, and approved by the mayor, city recorder or burgess thereof. No such ordinance shall be finally adopted and enacted in a less period than thirty days from the date of its introduction, and in the meantime copies of said ordinance shall be published in each of the official newspapers of such municipality once a week for three consecutive weeks immediately following the introduction thereof, and in case such municipality shall have no official newspapers, then in at least one newspaper published in the county in which the

Id. § 9.

Power to open, widen, straighten, extend or vacate streets.

Petitioners to represent majority of owners in number and interest.

Power to make street improvements without petition, by three-fourths vote of councils.

How ordinance therefor to be passed.

Copies of ordinance to be published.

<sup>1</sup> Upon the question whether this provision repeals those of the Act of May 23, 1880, Art. XIII., sec. 1, P. L. 312, relative to assessing cost of sewer on all the property in the sewer district, see *Park Ave. Sewers*, 169 Pa. 433; *Bradford City v. Foster*, 5 Dist. R. 523; also *Corry v. Corry Chair Co.*, 18 Super. Ct. R. 271.

<sup>2</sup> The portions of the above section in brackets added thereto by the amending Act of April 28, 1899, P. L. 100.

<sup>3</sup> See the Act of March 18, 1901, P. L. 51, authorizing the laying out and opening by township authorities of public roads which are extensions of streets in cities or boroughs, of equal width with such city or borough streets; also the Act of April 3, 1903, P. L. 137, authorizing the altering or widening of any public road connecting cities or boroughs, and prescribing the mode of assessing the

damages incident thereto. By the Act of April 20, 1905, P. L. 237, counties, cities or boroughs are authorized to provide for the repair, maintenance and improvement of portions of turnpikes within their limits which have been appropriated to public use. By the Act of May 24, 1887, P. L. 203, the county commissioners of counties erecting public buildings in any city of the state are empowered, with the approval of the court of common pleas, to join with the city authorities in the grading, paving, etc., of such parts of the streets as abut thereon, and to contract with the city authorities for the payment of a just proportion of the cost thereof.

<sup>4</sup> This means the majority of owners on the portion of the street to be actually improved, and not the majority of the owners on the whole of the street. *Spicer v. Pittsburgh*, 166 Pa. 86; *Union Alley*, 9 Dist. R. 209.

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municipality is situate, once a week for three consecutive weeks.<sup>1</sup>

## Id. § 10.

Upon passage of ordinance, notice thereof to be given.

Handbills to be posted.

Contents of notice.

Party interested may appeal to court of common pleas as to majority petitioning.

Petition.

Power of court to approve or quash proceeding.

Estoppel of parties by decree.

Interest on assessments.

To be payable to treasurer.

## Id. § 11.

Power to require laying and repair of sidewalks, boardwalks and curbstones.

On default, cost to be assessed upon owner.

20. The majority in interest and number required for petitions to councils shall be fixed as of the date of the presentation of said petition. After the passage or approval of any ordinance for the opening, widening, straightening, extending, grading, paving, macadamizing or otherwise improving any street or alley, notice shall, within ten days thereafter, be given by hand bills posted in conspicuous places along the line of the proposed improvement, which notice shall state the fact of the passage or approval of the ordinance, the date of the passage or approval, that the petition for the improvement was signed by a majority in interest and number of owners of property abutting on the line of the proposed improvement, and that any person interested and denying the fact that said petition was so signed may appeal to any court of common pleas of the proper county within sixty days from the passage or approval of said ordinance, and any person interested may, within sixty days from the passage or approval of said ordinance, present a petition to any court of common pleas of the proper county setting forth the facts, whereupon the said court shall inquire and determine whether said improvement was petitioned for by the requisite majority, and if said court shall find that it was not so petitioned for, shall quash said ordinance, but if said court shall find that it was so petitioned for, it shall approve the ordinance.<sup>2</sup> If no appeal shall be taken as aforesaid, or if the court on appeal shall approve the ordinance, the municipal corporation may proceed with the improvement, and thereafter all parties interested shall be estopped from denying the fact that said petition was signed by the requisite majority of property owners as required by this act. All assessments for benefits to pay damages, costs and expenses shall bear interest at the expiration of thirty days after they shall have been finally ascertained and fixed, and shall be payable to the treasurer or other proper officer of the municipality.

21. The municipal authorities may require sidewalks, boardwalks and curbstone to be laid, set and kept in repair, and after notice to the owner or owners of property to lay, set or repair such walks or stone in front of his, her or their property, and his, her or their failure to do so, the said municipal authorities may do the necessary work and assess the cost thereof upon the property of said owner or owners in front or along which said walk or curbstone so laid, set or

<sup>1</sup> So amended by Acts of May 22, 1895, P. L. 106, and March 19, 1903, P. L. 35. The former is constitutional as to its title. *Dorrance v. Dorranceton Borough*, 181 Pa. 164.

<sup>2</sup> See *Beechwood Ave.*, 194 Pa. 86; *Ebe's Appeal*, 10 Dist. R. 367; *Erie v. Grant*, 24 Super. Ct. R. 109.

repaired, shall be situate, and file a lien therefor, or collect the same by action of assumpsit.<sup>1</sup>

22. Every municipality shall have a general plan of its streets and alleys, including those which have been, or may be, laid out but not opened; which plan shall be filed in the office of the engineer or other proper office of the municipality, and all sub-divisions of property thereafter made shall conform thereto. No streets or alleys, or parts thereof, laid out and confirmed, shall afterwards be altered without the consent of councils; and no map or plot of streets or alleys shall be entered or recorded in any public office of the county in which said municipality is situated until approved by councils. No person shall hereafter be entitled to recover any damages for any buildings or improvements of any kind which shall or may be placed or constructed upon or within the lines of any located street or alley after the same shall have been located or ordained by councils.

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Lien to be laid and collected.

Id. § 12.

General plan of streets and alleys.

Where to be filed.

Streets on plan not to be altered without consent of councils.

Plan not to be recorded until approved by councils.

No damages to be recoverable for buildings erected on plotted streets.

23. The municipalities of the commonwealth shall have the power and authority to vacate, in whole or in part, all streets, lanes and alleys within their corporate limits, laid out by this commonwealth, whenever the same, or the portion to be vacated, shall have remained unopened for a continuous period of thirty years next preceding such vacation.

21 March 1905.

§ 1. P. L. 463.

Power to vacate unopened streets.

24. In exercising the power aforesaid, all proceedings for the ascertaining of damages, and the assessment of benefits incident thereto, shall be as now provided for by law in reference to payment of costs, damages and expenses of public improvements within municipal corporations.

Id. § 2.

Proceedings.

25. In addition to the present method provided by law for the payment and collection of the costs and expense of the permanent paving and improvement of any streets, alleys and other highways, or parts thereof, by the cities of this commonwealth, said cities shall have power to ordain that said costs and expense may be paid and collected in accordance with the provisions of this act.

12 June 1898.

§ 1. P. L. 453.

Cost of paving and improving streets and highways.

26. In order to provide for the payment of the cost and expense of such improvements, the councils of the cities of this commonwealth may, from time to time, issue their bonds in such sums as may be required, in all to an amount not exceeding the cost and expense of such improvement and interest thereon. Said bonds shall bear the name of the street or alley to be improved. They shall be payable at a period not less than five years from the date of their issue, to be provided in the ordinance directing the improvement, and bear interest at a rate not exceeding six per centum per annum, payable semi-annually, on the first day of July and January.

Id. § 2.

Improvement bonds may be issued.

How designated.

Term of bonds.

Interest.

<sup>1</sup> See *Pittsburgh v. Daly*, 5 Super. Ct. District, 17 Super. Ct. R. 83; *Pittsburgh v. Biggart*, 23 Id. 540.

12 June 1893.  
§ 3.

When question  
of issuance of  
bonds to be  
submitted to  
electors.

27. In all cases where it may be necessary to obtain the assent of the electors to an issue of bonds, the question of thus increasing the city debt shall be so submitted to the electors that they shall have the opportunity of voting for or against the issue of bonds for the improvement of any particular street or alley, separately and apart from the question of increasing the city debt for the improvement of any other street or alley.

Id. § 4.

Bonds not to  
be negotiated  
under par.

28. Said bonds shall be negotiated at not less than par, as other bonds of said cities are negotiated, and the proceeds thereof applied solely to the payment of the cost of said improvement. The contract price of the same and interest thereon to the first day when interest thereon is payable, shall be taken as the cost of said improvement, to be assessed on the property benefited, according to existing laws in each of said cities.

Assessment on  
property  
benefited.

Id. § 5.

Assessments to  
be entered  
of record.

To be first  
liens until  
paid.

29. Such assessments shall be entered in the proper municipal lien and judgment docket in the prothonotary's office; and shall, if filed within six months from the completion of the improvements, without the issuing of a scire facias to revive, remain a first lien upon the property assessed until fully paid, having precedence of all other liens except taxes, and shall not be divested by any judicial sale unless the payment of the same is provided for from the proceeds of such sale. The assessment shall state the name of the city claimant, the name of the owner or reputed owner, a reasonable description of the property, the amount claimed to be due, for what improvement the claim is made, and the time when the assessment was finally confirmed or made.

What record  
of assessment  
to contain.

Id. § 6.

Assessments to  
be payable in  
installments.

30. Such assessment shall be payable at the city treasurer's office in equal semi-annual installments, with interest at the rate provided in said bonds, from the date to which interest was computed on the amount of the assessments, or so much as remains unpaid from time to time, until all said assessments and interest are fully paid. The money so received by the city treasurer shall be applied to the sinking fund.

Proceeds to go  
to sinking  
fund.

Id. § 7.

On default,  
whole amount  
to be due.

31. In case of default in the payment of any semi-annual installment of said assessment and interest for a period of sixty days after the same shall become due and payable, the entire assessment and accrued interest shall become due and payable, and the city solicitor shall proceed to collect the same under the provisions of general laws creating and regulating municipal liens and proceedings thereon.

How col-  
lectible.

Id. § 8.

Payments may  
be made in  
advance.

32. Any owner of property against whom an assessment shall have been made for such improvement, shall have the right to pay the same, or any part remaining unpaid, in full with interest thereon to the next semi-annual payment due on said assessment; such payment shall discharge the lien. If

any owner shall sub-divide any property after such lien attaches, he in like manner may discharge the same upon any sub-divided portion thereof by paying the amount for which said part would be liable.

12 June 1903.  
Payment where property is subdivided.

33. All cities in this commonwealth shall have power, without petition of property owners, to grade, pave, curb, macadamize and otherwise improve any public street or public alley, or part thereof, within their corporate limits; *Provided*, The ordinance or ordinances authorizing and directing such improvement shall be adopted and enacted by the affirmative vote of three-fourths of the members-elect composing the councils of the said cities, and shall be approved by the mayor or city recorder thereof. No such ordinance shall be finally adopted and enacted in a less period than thirty days from the date of its introduction, and in the meantime copies of said ordinance shall be published in each of the official newspapers of such cities once a week for three consecutive weeks immediately following the introduction thereof, and in the event such cities shall have no official newspapers, then in at least two weekly newspapers published in the county in which the cities are situate, once a week for three consecutive weeks.<sup>1</sup>

22 May 1896.  
§ 1. P. L. 105.  
Power to grade, pave, curb, macadamize and improve streets and alleys.

How ordinance therefor to be enacted.

Publication of ordinance.

34. In exercising the power aforesaid all proceedings for the ascertaining of damages and the assessment of benefits incident thereto shall be as now provided by law in reference to payment of costs, damages and expenses of public improvements within municipal corporations.<sup>2</sup>

Id. § 2.  
Damages and benefits, how ascertained.

#### IV. Damages and Costs.

35. In all cases of assessment of damages for the opening or widening of any street or highway in any city in this commonwealth, the award of damages, if any, shall include all damages due to the grade at which said street or highway is

26 May 1891.  
§ 1. P. L. 117.

Damages for opening or widening of street to include damages due to grade.

<sup>1</sup> The section amended as above by Act of April 25, 1903, P. L. 301. See *New Castle v. Reario*, 18 Super. Ct. R. 350.

<sup>2</sup> This section held to be constitutional in *Greenfield Ave.*, 191 Pa. 290 (reversing S. C. 8 Dist. R. 80). The purpose of the act was to enlarge the occasions on which the power of municipalities to assess benefits might be exercised. Id. Various acts of assembly have been passed authorizing assessments and reassessments for cost of local improvements and providing for the collection thereof, which were of a remedial character, merely, and designed to validate proceedings begun under the Municipal Act of May 24, 1887, P. L. 204, or under other laws subsequently declared unconstitutional. Among them is the Act of May 23, 1889, P. L. 272, applicable to cities of the third class. These acts have been held constitutional on the ground that as it was within the

power of the legislature to provide for the making of the improvements of which the property owners had received the benefit, it might subsequently validate what it might have originally authorized. See *Chester City v. Black*, 132 Pa. 568; *Chester City v. Pennell*, 169 Id. 300; *Harrisburg v. Adams*, 18 Pa. C. C. R. 118; *Chester City v. Bullock*, 187 Pa. 544. As to the similar Acts of May 16, 1891, P. L. 65, and May 16, 1891, P. L. 71, see *Twenty-eighth Street Sewer*, 158 Pa. 464; *Donley v. Pittsburgh*, 147 Id. 348; *Dawson v. Pittsburgh*, 159 Id. 317; *Amberson Ave.*, 179 Id. 634. Other remedial acts of a similar character are those of June 4, 1897, P. L. 116; April 18, 1899, P. L. 57, and May 29, 1901, P. L. 321. This legislation is of a temporary character, intended to meet the cases contemplated therein, and is therefore not designed as the basis of a continuing system.

26 May 1891.

Plan to be attached to report of viewers.

16 May 1891.

§ 1. P. L. 90.

Court may make orders for payment of costs in road and street proceedings.

to be opened or widened, and the plan attached to the report of the viewers awarding the damages shall have therein a profile plan showing the existing grade.<sup>1</sup>

36. The several courts of quarter sessions in this commonwealth shall have power in all proceedings therein for the opening or vacating of roads, streets or highways, or for the assessment of damages for the opening or widening of the same, to make such orders for the payment of the costs in each proceeding as to the said court shall seem just and proper.

#### V. Appeals.

26 May 1891.

§ 1. P. L. 116.

Appeal to court of common pleas from quarter sessions in road and street damage cases.

Trial by jury.

Id. § 2.

Appeal to be accompanied by affidavit.

37. Whenever any report of viewers appointed by any court of quarter sessions to assess damages for the opening, widening or change of grade of any street, road or highway, shall be confirmed by the court of quarter sessions to which the said report is made, an appeal may be taken from the said court of quarter sessions by any party aggrieved by the said decree of confirmation to the court of common pleas in said county for a trial of the question of damages by jury according to the course of common law, within thirty days from the entry of said decree of confirmation by the court of quarter sessions, and not afterwards.<sup>2</sup>

38. Any appeal taken in pursuance of this act shall be signed by the party or parties taking the same, or by his or their agent or attorney, and shall be accompanied by an affidavit of the party appellant, or of its, his or their agent or attorney, that the same is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done.

<sup>1</sup> The viewers must prepare a schedule of benefits and damages, and a plan showing the improvements and the properties taken, injured or benefited. *McDermott v. New Castle*, 13 Pa. O. C. R. 474; and see *Lehigh Ave.*, 14 Dist. R. 829.

<sup>2</sup> This act appears to supply that of April 15, 1891, P. L. 17, to the same general purport (as to the unconstitutionality of which in part, see *Otto Township Road*, 181 Pa. 390). It does not re-

peal the Act of June 13, 1874, P. L. 283, providing for an appeal within thirty days of the filing of the report. *Vernon Park, Philadelphia's App.*, 163 Pa. 70. The appeal will be sustained if entered in the quarter sessions within thirty days from the confirmation of the report; the certificate or transcript of the appeal need not be entered in the common pleas within the thirty days. *Mansfield Borough's App.*, 158 Id. 314.

### Street Sprinkling and Cleaning.

1. Additional corporate power of cities of third class.

2. Streets may be sprinkled or cleaned on petition of abutting property owners.

2 May 1890.

§ 1. P. L. 188.

Additional corporate power of cities of third class.

1. In addition to the corporate powers specified in article five of said act,<sup>1</sup> every city of the third class is authorized and empowered to enact ordinances for the following purposes: To cause any public street, or part thereof, not less than one block, to be sprinkled with water, or, if such street is paved, to be cleaned during such time as it may be necessary, at the expense of the owners of property abutting upon the same.

3. Street sprinkling may be done by city, or under contract.

<sup>1</sup> The Act of May 23, 1889, P. L. 277. Sec. 4 of the act in the text was repealed

by the Act of June 4, 1901, P. L. 364, 386.

2. Councils shall cause any street, or part thereof, not less <sup>2 May 1890.</sup> than one block, to be sprinkled, or if such street is paved, to be cleaned at the cost of such abutting property owners, upon the petition of the owners or occupiers of such property, who shall represent a majority of the feet front on the street, or part thereof. <sup>§ 2. Streets may be sprinkled or cleaned on petition of abutting property owners.</sup>

3. Said councils may cause such sprinkling to be done with the water of the city, when water works are owned or operated by such city, and with sprinkling carts and apparatus owned by such city, or may contract for the use of said carts and apparatus with the lowest responsible bidder, as provided in section six, article four of said act to which this is a supplement. <sup>Id. § 3. Street sprinkling may be done by city, or under contract.</sup>

## Taxation.

[See TAXES.]

### I. CONSTITUTIONAL PROVISIONS.

1. Taxation to be uniform.
2. Exemptions.

4. Unfinished buildings, when included.
5. Public property, etc., to be exempt from tax or municipal claims. Exceptions. Proviso.
6. Public libraries, museums, etc., to be exempt from taxation.

### II. PROPERTY EXEMPT FROM TAXATION.

3. What property to be exempt from taxation. Proviso.

#### I. Constitutional Provisions.

1. All taxes shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws; but the general assembly may, by general laws, exempt from taxation public property used for public purposes, actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity.<sup>1</sup> <sup>Const. 1874. Art. IX., § 1. Taxation to be uniform.</sup>

<sup>1</sup> The constitutional provision did not execute itself so as to repeal existing laws regulating taxation and exemptions, but was mandatory upon the legislature to enact general laws to carry it into effect. *Lehigh Iron Co. v. Lower Macungie*, 81 Pa. 482; *Coatesville Gas Co. v. Chester Co.*, 97 Id. 476; *Ruth's App.*, 10 W. N. C. 498. The legislature has the power to classify the subjects of taxation. *Kitty Roup's Case*, 81 Pa. 211; *Germania Life Ins. Co. v. Commonwealth*, 85 Id. 518; *Knisely v. Cottler*, 196 Id. 614. The Act of March 18, 1875, P. L. 15, classifying real estate for purposes of taxation in cities of the third class, was declared unconstitutional, because optional, in *Scranton School Dist. App.*, 113 Pa. 176. The Act of May 28, 1879, P. L. 68, of similar purpose, was also unconstitutional for the same reason.

The property of a city necessary for carrying on the municipal government is not taxable for county purposes. *Erie County v. Erie*, 113 Pa. 360; *Union County v. Lock Haven*, 14 Dist. R. 565. But its property not necessary therefor is so taxable. *Erie County v. Water Commissioners*, 113 Pa. 368; *New Castle v. Lawrence County*, 2 Dist. R. 95. Railroad and canal companies and other quasi public corporations having the right of eminent domain, are specially taxable upon their

capital stock by the state, and such part of their property as is necessary to enable them to carry on their business is not liable to local taxation. *Northampton County v. Easton Passenger Railway Co.*, 148 Pa. 282; *Coatesville Gas Co. v. Chester County*, 97 Id. 476; *Pittsburgh's Appeal*, 123 Id. 374; *Lehigh County v. Bethlehem South Gas and Water Co.*, 4 Dist. R. 723; *Berks County v. East Pennsylvania R. R. Co.*, 1 Woodw. Decis. 376. But shops owned and operated by a railroad company for the construction and repair of locomotives and cars are liable to taxation for local purposes as real estate. *Railroad Co. v. Berks County*, 6 Pa. 70; *Penna., etc., R. R. Co. v. Vandyke*, 137 Id. 249. *Comp. Railway Co. v. Venango County*, 5 Super. Ct. R. 304; 183 Pa. 618, and *Lehigh Valley R. R. Co. v. County Commissioners*, 24 Pa. C. C. R. 537. The real estate of an incorporated private market house company is not exempt from taxation. *Allegheny County v. Diamond Market*, 123 Pa. 164; *South Reading Market House Co. v. Berks County*, 11 W. N. C. 424. By the Act of June 13, 1883, P. L. 118, lands acquired by the federal government in cities or boroughs for the erection of post offices, custom houses, etc., are exempted from local taxation and assessments.

Const. 1874.  
Art. IX. § 2.  
Exemptions.

2. All laws exempting property from taxation other than the property above enumerated, shall be void.<sup>1</sup>

## II. Property Exempt from Taxation.

14 May 1874.  
§ 1. P. L. 158.

What property  
to be exempt  
from taxation.

3. All churches, meeting houses, or other regular places of stated worship, with the grounds thereto annexed necessary for the occupancy and enjoyment of the same; all burial-grounds not used or held for private or corporate profit;<sup>2</sup> all hospitals, universities, colleges, seminaries, academies, associations and institutions of learning, benevolence or charity, with the grounds thereto annexed and necessary for the occupancy and enjoyment of the same, founded, endowed and maintained by public or private charity; and all school houses belonging to any county, borough or school district, with the grounds thereto annexed and necessary for the occupancy and enjoyment of the same; and all court houses and jails, with the grounds thereto annexed, be and the same are hereby exempted from all and every county, city, borough.

<sup>1</sup> By Art. III., sec. 7, of the constitution, the legislature is prohibited from passing any local or special law exempting property from taxation. The constitutional provision is likewise binding upon municipalities, and no municipal corporation can exempt specific industries or subjects from the payment of a tax to which the same class of industries or subjects is by law liable. See *Zanesville v. Richards*, 5 Ohio St. R. 589; *Cooley on Taxation*, 153. The effect of such illegal exemptions may be to invalidate the entire tax roll upon which such exempted industries or subjects should have appeared; at all events if it operates to increase the amount at which others are taxed. *Dunham v. Chicago*, 55 Ill. R. 357; *Dillon, Munic. Corp.*, § 776, note. But exonerations in particular cases, after levy and assessment, may be made; such is the provision of both of the Municipal Acts of 1874 and 1889, and such power seems always to have been recognized, though it is one that is to be exercised with careful judgment and for sufficient cause. A merely accidental omission of some of the subjects of taxation will not avoid the tax levy. *Insurance Co. v. Yard*, 17 Pa. 331.

<sup>2</sup> The earlier interpretations of the constitutional and legislative provisions regarding exemptions from taxation were that assessments for the cost of municipal improvements were a tax within the intent and purpose of those enactments, from the payment of which property exempted from general taxation was also

relieved. (See *Olive Cemetery v. Philadelphia*, 93 Pa. 129; *Erie v. First Universalist Church*, 105 Id. 278.) Whilst a municipal assessment is still regarded as based upon the taxing power, (*McKeesport v. Fidler*, 147 Id. 532), it is no longer held to be a "tax" within the meaning of the foregoing provisions, and therefore churches, places of burial and charitable institutions, expressly declared by the constitution to be exempt from taxation, have been judicially decided to be liable for municipal assessments for local benefits, as for the cost of paving streets, curbing and paving sidewalks, construction of sewers, laying of water pipe, etc. The exemption is held to be restricted to taxation for general public purposes, and to no other, the earlier decisions in conflict with this interpretation being expressly overruled. See *Wilkinsburg Borough v. Home, etc.*, 131 Pa. 109; *Philadelphia v. Church of St. James*, 134 Id. 207; *Philadelphia v. Penna. Hospital*, 143 Id. 367; *Broad Street Church's App.*, 165 Id. 445; *New Castle City v. Jackson*, 172 Id. 86; *Beltzhoover Borough v. Beltzhoover's Heirs*, 173 Id. 213; *Philadelphia v. Burial Ground Society*, 178 Id. 533; *Harrisburg v. St. Paul's Church*, 5 Dist. R. 351; *Philadelphia v. Franklin Cemetery*, 2 Super. Ct. R. 569. See, however, the Act of March 19, 1903, (*infra* 5), specifying the several kinds of local assessments for which public property, places of religious worship and of burial, and institutions of purely public charity are liable.



bounty, road, school and poor tax;<sup>1</sup> *Provided*, That all property, real or personal, other than that which is in actual use and occupation for the purposes aforesaid, and from which any income or revenue is derived, shall be subject to taxation, except where exempted by law for state purposes, and nothing herein contained shall exempt [the] same therefrom;<sup>2</sup> *And provided*, That all property, real and personal, in actual use and occupation, for the purposes aforesaid shall be subject to taxation, unless the person or persons, association or corporation, so using and occupying the same, shall be seized of the legal or equitable title in the realty and possessor of the personal property absolutely.<sup>3</sup>

4. Nothing in the act to which this is a supplement<sup>4</sup> shall be taken as implying that any building, though incomplete or in course of construction, shall be subject to taxation, where said building was intended under provision of said act to be exempt from taxation when completed.<sup>5</sup>

5. Public property used for public purposes shall not be subject to tax claims or municipal claims; and actual places of religious worship, places of burial not used or held for private or corporate profit, and institutions of purely public charity shall not be subject to tax or municipal claims, except for removal of nuisances, for sewer claims and sewer connections, or for the recurbing, paving, repaving or repair-

<sup>1</sup> The law with relation to the subjects of exemption has been well settled by judicial construction. An institution of public charity in the legislative sense is not necessarily one solely controlled and administered by the state, but the term includes the numerous institutions for purposes of purely public charity and not administered, either in whole or in part, for private or corporate gain. The essential feature of a public use is that it is not confined to privileged individuals or classes, but is open to the general public. If the entire property is thus devoted, the institution is exempt from taxation. *Donohugh's App.*, 86 Pa. 306; *Philadelphia v. Women's Christian Association*, 125 Id. 572; *Episcopal Academy v. Philadelphia*, 150 Id. 565; *Erie v. Y. M. C. A.*, 151 Id. 168; *Philadelphia v. Masonic Home*, 160 Id. 572; *Philadelphia v. Keystone Battery A*, 169 Id. 526; *Missionary Society v. Receiver of Taxes*, 173 Id. 456. See, also, *Mullen v. Juenet*, 6 Super. Ct. R. 1; *White v. Smith*, 8 Id. 206; the latter overruled, 189 Pa. 222. But such portions of the real estate owned and occupied by a charitable institution as are leased to tenants paying rent, or from which a revenue is derived, are not exempt. *Philadelphia v. Barber*, 160 Pa. 123; *Mercantile Library Co. v. Philadelphia*, 161 Id. 155. *Philadelphia v. Overseers Public School*, 170 Pa. 257; *Pocono, etc., Assembly v. Monroe County*, 29 Super. Ct. R. 86; nor such as are separated from it and not essential for its use. *Philadelphia v. Aid Society*, 154 Pa. 12; nor property leased by it at an annual rental. *Kittanning Academy v. Kittanning Borough*, 8

Super. Ct. R. 27; nor such in which the institution itself carries on a business for profit. *American S. S. Union v. Philadelphia*, 161 Pa. 307. But where the profits are devoted to the support of the charity and the property is used directly for its purposes, the institution is exempt. *Pennsylvania Hospital v. Delaware County* 169 Pa. 305; *Haverford College v. Rhoads*, 6 Super. Ct. R. 71. A parsonage belonging to a church is subject to taxation when not locally annexed to the church edifice or its curtilage; also, a janitor's residence. *Pittsburgh v. Third Presbyterian Church*, 10 Super. Ct. R. 302; *Church v. Montgomery County*, 10 W. N. C. 170; *Parsonage Taxes*, 25 Pa. C. C. R. 570. When the charitable use of the premises ceases, the exemption ends. *Moore v. Taylor*, 147 Pa. 481; *Philadelphia v. Hospital Association*, 148 Id. 454; *Grubb v. Weaver*, 19 Pa. C. O. R. 609. Exemptions cannot be allowed for portions of a year. *Philadelphia v. Penna. Inst. for Blind*, 28 Super. Ct. R. 421.

<sup>2</sup> This proviso is unconstitutional as disclosing a purpose to impose taxation inconsistent with that indicated in its title. *Sewickley Borough v. Sholes*, 118 Pa. 165. For other purposes, however, the proviso stands and is to be considered in interpreting the legislative intent of the whole act. *Philadelphia v. Barber*, 160 Id. 123.

<sup>3</sup> The section amended as above by Act of May 29, 1901. P. L. 319.

<sup>4</sup> The Act of May 14, 1874, *supra*.

<sup>5</sup> This section held to be unconstitutional in *Pittsburgh v. Phelan*, 11 Dist. R. 572. (C. P. Allegheny county.)

14 May 1874.

Proviso.

4 June 1879.

§ 1. P. L. 90.

Unfinished buildings, when included.

19 March 1908.

§ 8. P. L. 48.

Public property, etc., to be exempt from tax or municipal claims.

19 March 1908 ing the footways in front thereof. All other real estate, by whomsoever owned and for whatsoever purpose used, shall be subject to all tax claims and municipal claims herein provided for; *Provided however*, That nothing in this act contained shall hinder or prevent any city, borough, or township of the first class from providing that any municipal work may be done at the expense of the public generally, and be paid for out of the general city, borough or township funds.

20 April 1906.  
§ 1. P. L. 234.

Public libraries, museums, etc., to be exempt from taxation.

6. All property, including buildings and the land reasonably necessary thereto, provided and maintained by public or private charity, and used exclusively for public libraries, museums or art galleries, and not used for private or corporate profit, so long as the said public use continues, shall be exempt from taxation by any county, city, borough, township, school district or poor districts.

## Tax Collectors.

1. Embezzlement by collectors or custodians of public taxes. Punishment thereof of principals or abettors.

8 June 1885.  
§ 1. P. L. 72.

Embezzlement by collectors or custodians of public taxes.

Punishment thereof of principals or abettors.

1. If any person charged with the collection, safe-keeping or transfer of any state, county, township, school, city, borough or municipal taxes, under any law or laws of this commonwealth, shall convert or appropriate the moneys so collected, or any part thereof, to his own use in any way whatever,<sup>1</sup> or shall use by way of investment in any kind of property or merchandise any portion of the money so collected by him from such tax or taxes, and shall prove a defaulter, or fail to pay over the same, or any part thereof, at the time or times, place or places required by law, and to the person or persons legally authorized to demand and receive the same, every such act shall be deemed and adjudged to be an embezzlement of so much of said money as shall be thus taken, converted, appropriated, embezzled, invested, used or unaccounted for, which is hereby declared a misdemeanor; and every such tax collector, and every person or persons whomsoever aiding or abetting, or being in any way accessory to such act, and being thereof convicted, shall be sentenced to an imprisonment not exceeding five years, or to pay a fine not exceeding five thousand dollars, or both, at the discretion of the court.<sup>2</sup>

<sup>1</sup> See *Commonwealth v. McCullough*, 19 Super. Ct. R. 412.

<sup>2</sup> See the Act of May 26, 1897, P. L. 108, providing for the requiring of addi-

tional security from tax collectors and other public officers, in cases of intemperance, insolvency, etc., or their removal in default thereof.

## Taxes.

## [See ASSESSMENTS—CORPORATE POWERS—MUNICIPAL CLAIMS—STREETS—TAXATION.]

## I. COLLECTION OF TAXES IN CITIES OF THIRD CLASS.

1. Collection of taxes. Percentages to be added to unpaid taxes.
2. Collectors to be appointed. Compensation. Bond. Powers of collectors.
3. Collectors to make monthly returns of moneys received. Treasurer to enter satisfaction. When duplicates to be settled. Exonerations.
4. Collectors to deliver schedule of unpaid taxes to treasurer, with description of properties. Failure to collect tax not to impair lien. Liability of collector for false return.
5. Treasurer to certify unpaid taxes to solicitor. Registration of unpaid taxes in city lien-docket. Fee of prothonotary for registration. Transcripts of record.
6. Taxes to be liens from date of levy until paid. Priority of lien. Lien not to be divested by judicial sale, except as to amount paid out of proceeds. No exemption to be allowed.
7. Collection of city, school and poor taxes.
8. City treasurer to be collector. Oath.
9. When duplicates to be delivered to treasurer. To be open to public inspection.
10. Warrants for collection of duplicates. By whom warrants to be executed.
11. Treasurer to appoint deputy collectors. Compensation. Powers of treasurer as collector. Distraint of property and public sale thereof. Expiration of warrant.
12. Treasurer to give bond. Condition of bond. To cover term of office.
13. Rebate of taxes for prompt payment. Penalty on unpaid taxes.
14. What school and poor taxes collectible under this act.
15. Where treasurer to keep office.
16. Treasurer to make sworn returns to city controller and to representative of school board.
17. Entry of satisfaction on duplicates. When duplicates to be settled. Exonerations.
18. Uncollected taxes to be scheduled. Liens to be entered therefor. Affidavit to schedule. Failure to collect tax not to impair lien. Liability for false return. Schedule to be certified to city solicitor. How schedule of unpaid school and poor taxes to be certified. Registry of liens therefor.
19. Settlement of treasurer's accounts and returns.
20. Compensation of treasurer as collector.

tor. Limit of compensation. Retention of commissions.  
21. Repeal.

## II. SALE OF LANDS FOR CITY TAXES.

22. Sale of lands for unpaid city taxes.
23. Date of sale.
24. Schedules of delinquent taxes to be certified to city treasurer. Property to be advertised. How advertisement to be made. Posting of notice on premises. Taxes paid before sale. Lands may be redeemed within two years after sale. Conditions. Treasurer to keep registry of sales. City may bid and purchase.
25. Payment of purchase money and costs. Upon non-payment, property may be resold.
26. City treasurer to make return of sale to court. Contents of return. Confirmation of report. Disposition of exceptions to sale.
27. Purchaser to give bond to treasurer for surplus of purchase money. Bond to be filed in prothonotary's office. Bond to be lien. Owner may have judgment entered thereon. Execution.
28. City treasurer to execute deed to purchaser. Acknowledgment and recording of deed. Fee of prothonotary.
29. Proceedings in case of redemption. On payment of redemption moneys, treasurer's deed to be cancelled. Purchase money to be refunded. Record of redemption.
30. Repeal.

## III. LIEN OF TAXES.

31. Lien of taxes to be divested by judicial sale. Proviso.
32. Officers charged with collection of taxes to give notice of amount of tax due. Taxes to be first paid out of proceeds, after costs.
33. Priority of lien of mortgages. Proviso.
34. Repeal.

## IV. COLLECTION OF MUNICIPAL ASSESSMENTS.

35. Assessments for cost of municipal improvements to be paid as provided by ordinance. Penalty and interest.
36. Assessments to be lien for six months without filing of specification. Fee of prothonotary for entering lien. Sufficiency of specification. To be lien for ten years from date of entry. Amendment. Priority of lien.

## I. Collection of Taxes in Cities of Third Class.

1. The duplicates, when completed as aforesaid,<sup>1</sup> shall be placed in the possession of the city treasurer on or before the first day of June,<sup>2</sup> who shall receive and collect said taxes. On the first day of September in each year, three per centum shall be added to all taxes then remaining unpaid, and on the first day of each month thereafter, one per centum shall be added to all outstanding taxes until the same are fully paid.<sup>3</sup>

<sup>1</sup> Under the preceding sections of Art. XV. of the Act of May 23, 1889.

<sup>2</sup> Where by reason of delay in the completion of the assessments the tax duplicates were not placed in the hands of the treasurer until after the date fixed by statute, held that the tax levy was not thereby invalidated. *Matthews v. Scranton*, 9 W. N. C. 507.

<sup>3</sup> Not only the amount of the tax originally levied, but the percentages subsequently added for non-payment, are liens upon the real estate against which the tax is assessed, and are entitled to priority of payment out of the proceeds of a judicial sale. *Titusville's App.*, 108 Pa. 600.

23 May 1889  
Art. XV., § 7.  
P. L. 319.

Collection of taxes.

Percentages to be added to unpaid taxes.

23 May 1890.  
Art. XV.  
§ 8.

Collectors to  
be appointed.

Compensation.

Bond.

Powers of  
collectors.

2. On and after the first day of November in each year, the city treasurer shall place duplicates of unpaid taxes in the hands of the collectors, to be by him appointed, with his warrant for their collection,<sup>1</sup> who shall collect the same, and shall receive such compensation for their services as may be authorized by councils. The said collectors, before entering upon their duties, shall severally give bond to the city, in a sum equal to the amount of taxes in their duplicate, with corporate or two sufficient sureties, to be approved by councils, conditioned for the faithful accounting for according to law of all taxes charged in the duplicate. The said collectors shall severally have and exercise all the powers vested by law in the collectors of state and county taxes, and shall also be authorized, after five days' notice, to seize by levy and distress any property on the premises assessed belonging to tenants or others, without regard to the date of the assessment of the tax and to sell the same, giving ten days' public notice of such sale by written or printed advertisement, and to levy upon any personal property of the delinquent that may be found within the county for the collection of said tax, and after notice of sale as aforesaid to sell the same for the payment of said tax.<sup>2</sup>

Id. § 9.

Collectors to  
make monthly  
returns of  
moneys re-  
ceived.

Treasurer to  
enter satis-  
faction.

When dupli-  
cates to be  
settled.

Exonerations.

Id. § 10.

Collectors to  
deliver sche-  
dule of unpaid  
taxes to treas-  
urer, with de-  
scription of  
properties.

3. Each of the said collectors shall immediately proceed to collect the taxes as charged in the duplicates placed in his hands, and shall pay over at the end of each month all moneys he may have by that time collected, and he shall make a return therewith, showing by whom, and upon what properties the real estate taxes have been paid,<sup>3</sup> and thereupon it shall be the duty of the city treasurer to satisfy the real estate tax thus paid upon the duplicates remaining in his office. The said collectors of city taxes shall settle their respective duplicates within five months from the time the same came into their hands, respectively, and shall pay over the amount charged against them, except such sums as they may be exonerated from collecting by the proper city authorities.

4. Within five months of [from] the time the said duplicate shall have been placed in the hands of any collector, he shall make out and deliver to the treasurer a schedule of all city taxes assessed against real estate which still remain unpaid, with a brief description of the properties against which the same are assessed, and with his affidavit thereto setting forth that after proper effort he could not find sufficient personal property out of which the said taxes, or any part there-

<sup>1</sup> The Acts of February 13, 1903, P. L. 6, and April 1, 1905, P. L. 101, revive and extend for the period of one year from their passage the warrants of collectors of city, county, poor, township, ward, school and borough taxes expiring during the years 1903 and 1905, respectively.

<sup>2</sup> The section amended as above by Act of May 16, 1901, § 31, P. L. 248.

<sup>3</sup> The owner of the land at the time the taxes are assessed against it is personally liable to pay them, and he alone remains personally liable therefor, although he convey the land during the year for which the taxes are assessed, and subject to the lien thereof. *King v. Mt. Vernon Building Assn.*, 106 Pa. 165; *Theobald v. Sylvester*, 27 Super. Ct. R. 362.

of, could be made or collected as provided by law; *Provided*, <sup>28 May 1889. Art. XV.</sup> however, That the failure of the said collector to collect the said tax from personal property when the same could have been collected, shall not impair the lien of any such tax, or affect the validity of any sale made in the collection thereof; <sup>Failure to collect tax not to impair lien.</sup> And provided further, That in case any such collector shall make any wilfully false return he shall be liable therefor to any person or persons injured thereby. <sup>Liability of collector for false return.</sup>

5. It shall be the duty of the city treasurer, upon the return to him of the schedules of unpaid city taxes, as provided in the preceding section, to certify the said schedules and taxes, or a copy thereof, to the city solicitor,<sup>1</sup> who shall cause the said taxes, with the penalties thereon, to be registered in the name of the city and against the person or persons charged in the duplicates with the same, in the office of the prothonotary of the proper county, who shall keep a separate book for that purpose, to be called the city lien docket. The prothonotary shall be allowed and paid for each tax so registered a fee of twenty-five cents, which shall form a part of the costs, and shall be paid by the person from whom the tax is due; he shall also make searches and furnish transcripts or extracts from the register of taxes aforesaid, for which he shall be allowed the usual fees, to be paid by the party applying for the same.<sup>2</sup> <sup>Id. § 11. Treasurer to certify unpaid taxes to solicitor. Registration of unpaid taxes in city lien docket. Fee of prothonotary for registration. Transcripts of record.</sup>

6. All taxes assessed upon real estate under the provisions of this act shall be and continue to be liens thereon from the date of the assessment and levy thereof until paid. The lien of said taxes shall have priority to, and shall be fully paid and satisfied before any recognizance, mortgage, judgment, obligation, lien or responsibility which the said real estate may become charged with or liable to, and shall not be divested by any judicial sale, except for so much of the proceeds of such sale as shall be actually applied thereto,<sup>3</sup> nor shall the defendant or defendants, or other persons, in any writ of fieri facias, venditioni exponas or levavi facias be entitled to claim any exemption under a levy and sale of any real estate charged with such tax, against the allowance or payment of the same.<sup>4</sup> <sup>Id. § 12. Taxes to be liens from date of levy until paid. Priority of lien. Lien not to be divested by judicial sale, except as to amount paid out of proceeds. No exemption to be allowed.</sup>

7. The several city treasurers, hereafter elected in cities of the third class of this commonwealth, by virtue of their office shall be the collectors of all the city, school and poor taxes, assessed or levied in their respective cities, and shall <sup>20 June 1901. § 1. P. L. 578. Collection of city, school and poor taxes.</sup>

<sup>1</sup> The certification of the taxes by the treasurer as unpaid is a condition precedent to the authority of the solicitor to register them as liens. *Reading v. Krause's Estate*, 167 Pa. 23.

<sup>2</sup> So amended by Act of May 23, 1895, sec. 4, P. L. 122. See, with relation to the indexing of judgments in dockets with *ad sectum* indexes, the Act of June 11, 1879, P. L. 134.

<sup>3</sup> See *Harrisburg v. Orth*, 2 Pears. R. 340; *Altoona v. Ensbrenner*, 7 Dist. R. 740; 21 Pa. C. C. R. 339.

<sup>4</sup> So amended by Act of May 23, 1895, § 5, P. L. 123. See *Altoona v. Calvert*, 7 Dist. R. 739. The similar language of § 20, cl. 83 of the Act of May 23, 1874, held, not to affect the widow's right of exemption under the Act of April 14, 1851. *Allentown's App.*, 109 Pa. 75. As to the lien of taxes and municipal assessments under the more recent statute of June 4, 1901, §§ 2, 3, 4, see title "Municipal Claims," p. 132.

20 June 1901.

Id. § 2.City treasurer  
to be collector.  
Oath.Id. § 3.When dupli-  
cates to be  
delivered to  
treasurer.To be open  
to public in-  
spection.Id. § 4.Warrants for  
collection of  
duplicates.By whom war-  
rants to be  
executed.Id. § 5.Treasurer to  
appoint deputy  
collectors.

Compensation.

Powers of  
treasurer as  
collector.Distrain of  
property and  
public sale  
thereof.Expiration of  
warrant.

perform the duties and be subject to the hereinafter provisions of this act.

8. At the same time the city treasurer enters upon his duties, he shall take and subscribe his oath of office as collector of city, school and poor taxes, which oath shall be filed with the city clerk of the proper city.

9. The several city, school and poor authorities, now empowered or which may be hereafter empowered to levy taxes upon persons and property within the said cities of the third class, shall, on the first day of June in each year, make out and deliver their respective duplicates of taxes assessed to the said city treasurer, as the collector of the said several taxes, which taxes shall be collected by the said city treasurer, by virtue of his office as herein provided, and the said duplicates shall at all times be open to the proper inspection of the taxpayers and of the proper auditing and examining officers, and shall be delivered by the said treasurer at the expiration of his term to his successor in office.

10. The said several duplicates shall be accompanied with the warrants of the proper authorities, directing and authorizing the said city treasurer, as the collector of taxes, to collect the same. The warrant for the collection of any school tax shall be executed by the president of the board of school controllers, attested by the secretary thereof; the warrant for any tax levied by the councils of any of said cities shall be executed by the mayor, and be countersigned by the city controller; and in all other cases the warrant shall be executed by the authority making the tax levy.

11. The city treasurer, as the said collector of taxes, shall have power to appoint as many deputies as shall be necessary to enable him to collect the said taxes or any of them, which deputies shall be paid by the said treasurer, and the respective authorities levying the tax shall not in anywise be liable for their compensation nor for their official conduct. The said treasurer, as the collector of the said several taxes, and his deputies, shall have and exercise all the powers vested by law in the several collectors of state and county taxes, and in all the remedies for the collection thereof; and shall have additional power and authority, after five days' notice, to seize by levy and distress any property on the premises assessed, belonging to tenants, purchasers or others, without regard to the date of assessment or levy of the tax, and to sell the same, giving ten days' public notice of such sale by written or printed advertisement; and to levy upon any personal property of the delinquent, that may be found within the county, for the collection of said taxes; and after notice of sale as aforesaid, to sell the same for the payment of said taxes. The said several warrants shall be effectual to authorize the said treasurer, as collector of taxes, to collect the said taxes during two years from the date of each respective warrant.

12. The said treasurer, as collector of taxes, before entering upon his duties, shall give bond in the usual form to the respective authority levying the tax, in an amount to be by them severally fixed, with corporate or at least two sufficient sureties to be by them approved, conditioned that the said treasurer, as collector of taxes, shall well and truly collect and pay over or account for, according to law, the whole amount of the taxes charged and assessed in the duplicates which shall be delivered to him during his term of office. In the case of city taxes, the said treasurer shall be required to give but one bond, which shall include his duties as city treasurer and as collector of city taxes. All bonds given as aforesaid shall cover the full term of office of the said treasurer; *Provided always*, That should any of the said authorities levying any tax be of opinion, at any time, that the bond given as aforesaid is not sufficient, the said authority may require the said treasurer, as collector, to give additional security, to be approved in manner as aforesaid; but the said collector shall not in any event be required to give bond or bonds aggregating in amount in excess of the tax to be collected by him.

20 June 1901.  
§ 6.

Treasurer to  
give bond.

Condition  
of bond.

To cover term  
of office.

13. All persons who shall make payment, on or before the first day of July in each year, of any city, school or poor tax, levied within the respective city of the third class and charged against the said persons in the proper duplicate, shall be entitled to a reduction or abatement of one per centum from the amount thereof. Upon all taxes remaining unpaid on the first day of September of each tax year, three per centum shall be added thereto; and upon the first day of every succeeding month thereafter, there shall be added or charged an additional penalty for non-payment of one per centum, until such taxes are paid, which penalties shall be added to the taxes by the said treasurer, as collector, and be collected by him.

Id. § 7.

Rebate of  
taxes for  
prompt pay-  
ment.

Penalty on  
unpaid taxes.

14. The school taxes which shall be collected under the provisions of this act are the school taxes only which are levied by the boards of school controllers, organized and acting under and in pursuance of the act of assembly, entitled "An act dividing the cities of this state into three classes, regulating the passage of ordinances, providing for contracts for supplies and work in said cities, authorizing the increase of indebtedness and the creation of a sinking fund to redeem the same, defining and punishing certain offenses in all of said cities, and providing for the incorporation and government of cities of the third class," approved the twenty-third day of May, Anno Domini one thousand eight hundred and seventy-four, and the supplement to said act, approved the sixteenth day of June, Anno Domini one thousand eight hundred and ninety-one, and are payable to said city treasurer as ex-officio school treasurer under existing laws; and

Id. § 8.

What school  
and poor taxes  
collectible un-  
der this act.

20 June 1901.

Id. § 9.

Where treasurer to keep office.

Id. § 10.

Treasurer to make sworn returns to city controller and to representative of school board.

Id. § 11.

Entry of satisfaction on duplicates.

When duplicates to be settled.

Exonerations.

Id. § 12.

Uncollected taxes to be scheduled.

Liens to be entered therefor.

Affidavit to schedule.

Failure to collect tax not to impair lien.

Liability for false return.

the poor taxes collected thereunder, are such poor taxes only as are levied by the proper poor authorities of the respective city.

15. The said treasurer, as collector of taxes, shall keep his office in the same place occupied by him as city treasurer, which shall be kept open for the receipt of taxes at all times during business hours. All printing and stationery supplies shall be furnished by the proper authorities, respectively.

16. The said treasurer, as collector of taxes, shall, at least once a month, pay over to himself as city treasurer and school treasurer, or charge himself therewith, all the city, school and poor taxes collected by him; at the same time he shall make a return or report to the city controller, verified by affidavit, showing by whom and upon what properties the real estate city taxes have been paid; and also make a report and return to such officer or representative of the board of school controllers, and to such other authority in said city as shall be entitled thereto, verified as aforesaid, showing by whom and upon what properties the real estate, school and poor taxes have been paid.

17. Upon the payment to said treasurer, as said collector, of any taxes assessed against real estate, it shall be his duty to satisfy the real estate taxes thus paid, upon the duplicates in his hands. He shall finally settle with the proper authorities all duplicates of taxes delivered to him, on or before the first Monday of April following the date of the delivery of such duplicates, and pay over the amount charged against him, except such sums as he may be exonerated from collecting by the proper authorities, which exonerations may be made in the manner as heretofore practiced.

18. Upon the settlement of the duplicates of city and school taxes and of any poor taxes which by law are made a lien on real estate, it shall be the duty of the said city treasurer, as collector of said taxes, to make out schedules of said city, school or poor taxes uncollected upon his duplicates, with a brief description of the properties against which the same are assessed, for the purpose of having the same entered for lien or sold, in accordance with existing laws or laws which may be hereafter enacted. Each schedule shall be accompanied by his affidavit thereto, setting forth that after the proper efforts he could not find sufficient personal property out of which the said taxes or any part thereof could be made or collected, as provided by law; *Provided, however,* That the failure of the said collector to collect the said taxes from personal property, when the same could have been collected, shall not impair the lien thereof or affect any sale made for the collection thereof; *And provided further,* That in case any such collector shall make any wilfully false return, he shall be liable therefor to any person or persons injured thereby. The schedule of unpaid city taxes, hereinabove provided



for, shall be certified by said treasurer, as collector, to the city <sup>20 June 1901.</sup> solicitor of the respective city, for filing in court, with the <sup>Schedule to be</sup> like force and effect as if certified by the city treasurer under <sup>certified to</sup> existing laws. The schedule of unpaid school and poor taxes, <sup>city solicitor.</sup> when a lien, shall be certified to such officer or person as is <sup>How schedule</sup> now, or shall hereafter be, designated to receive the same for <sup>of unpaid</sup> filing as a lien in court; and where no such person is desig- <sup>school and</sup> nated, the said schedule may be certified to the solicitor of the <sup>poor taxes to</sup> authority levying the tax, who may cause the said taxes to be <sup>be certified.</sup> registered as a lien in court, under existing laws, and the cer- <sup>Registry of</sup> tifying of the said schedules by the said treasurer, as a col- <sup>liens therefor.</sup> lector, shall in all cases have the like effect as if the same had been certified by the city treasurer, as aforesaid.

19. The final accounts and monthly returns of the said <sup>Id. § 13.</sup> treasurer, as collector of taxes, shall be settled by the proper <sup>Settlement of</sup> controllers or authorities entitled to examine and audit the <sup>treasurer's ac-</sup> same; and said collector shall, in settling his duplicates, state <sup>counts and</sup> a separate account for each different tax collected by him. <sup>returns.</sup>

20. The compensation or commission to the said treasurer, <sup>Id. § 14.</sup> as collector of each particular tax, shall be fixed by the re- <sup>Compensation</sup> spective authority levying the tax; *Provided, however,* That <sup>of treasurer as</sup> this compensation shall not, in any event, be less than one per <sup>collector.</sup> centum on all taxes paid him before any penalty has been in- <sup>Limit of com-</sup> curred, and five per centum on all taxes paid him after the <sup>pensation.</sup> penalty has been incurred. His compensation for collecting city taxes shall be paid by warrant, but he shall have the <sup>Retention of</sup> right to retain his commission or compensation from and out <sup>commissions.</sup> of the other taxes collected by him.

21. All general acts or parts thereof, inconsistent here- <sup>Id. § 15.</sup> with, are hereby repealed, but this act shall not apply to any <sup>Repeal.</sup> taxes the collection of which is regulated by a local law.

## II. Sale of Lands for City Taxes.

22. In addition to the remedies now provided by law for <sup>30 March 1903.</sup> the collection of delinquent city taxes, the city treasurers of <sup>§ 1. P. L. 106.</sup> the several cities of the second class and third class of this <sup>Sale of lands</sup> commonwealth are hereby authorized and empowered to sell <sup>for unpaid city</sup> at public sale, in the manner hereinafter provided, all such <sup>taxes.</sup> property upon which the taxes, assessed and levied, have not been paid and have become delinquent.

23. Such sales shall be made on the first Monday in June, <sup>Id. § 2.</sup> in the year succeeding the year in which the respective taxes <sup>Date of sale.</sup> are assessed and levied, or on any day to which such sale may be adjourned, or on any first Monday of June in any succeeding year.

24. Where the respective treasurer has not already in his <sup>Id. § 3.</sup> hands the duplicates of said taxes, or certificates or schedules <sup>Schedules of</sup> thereof, it shall be the duty of any receiver or collector of <sup>delinquent</sup> taxes, or other person having such delinquent taxes in his <sup>taxes to be</sup> <sup>certified to</sup> city treasurer.

**30 March 1908** hands, to certify to the said city treasurer schedules of all unpaid taxes, with descriptions of the property assessed; and it shall be the duty of the city treasurer to advertise for sale all the lands upon which it appears the taxes have not been paid, as shown by the duplicates in his hands, or by the returns or schedules certified to him, as aforesaid. Said advertisement shall be made, once a week for three successive weeks prior to the day of sale, in at least two newspapers of general circulation, printed and published in the respective city, and, in case two newspapers are not published in said city, then publication shall be made in two newspapers printed and published in the county in which said city is situate; and said treasurer shall also cause to be posted or tacked, in a conspicuous place on each parcel or lot of land advertised for sale, at least ten days prior to the day of sale, a notice stating that said lands will be sold by said treasurer, for delinquent taxes, on a certain day and time, and at a certain place within the city, for which posting of notice he shall receive and tax as costs twenty-five cents for each notice; *Provided*, That no sale shall be valid where the taxes have been paid prior to said advertisement, or where the taxes and costs have been paid after advertisement and before sale; *And provided further*, That the lands sold under this act may be redeemed by the owner, or by any one interested in said lands, at any time within two years after such sale, by the payment to the city treasurer of the full amount which the purchaser paid to said treasurer for taxes and costs, and twenty-five per centum in addition thereto; and when the sale has been made for less than the taxes and costs, the party redeeming shall pay to said treasurer the balance of taxes and costs which were not made by the sale of the said property. In case there are any city taxes, levied either before or after the said sale, which remain unpaid, the person redeeming shall pay the same; and in case the purchaser has paid any taxes of any kind whatsoever, assessed and levied against said property, the same shall be reimbursed to said purchaser before any redemption shall take effect. The said treasurer shall keep in his office a book, in which he shall enter all the sales made by him; giving a description of each property sold, the name of the person as the owner thereof as the same appears upon the duplicate, or has been returned to him, the time of sale and the price at which sold, together with the cost. Each respective city shall have the right to bid, at any such sale, the amount of taxes and costs, and if necessary purchase such lands.

Property to be advertised.

How advertisement to be made.

Posting of notice on premises.

Taxes paid before sale.

Lands may be redeemed within two years after sale.

Conditions.

Treasurer to keep registry of sales.

City may bid and purchase.

Id. § 4.

Payment of purchase money and costs.

25. It shall be the duty of the purchaser or purchasers at said treasurer's sale, as soon as the property is struck down, to pay the amount of the purchase money, or such part thereof as may be necessary to pay all the taxes and costs, as also one dollar and fifty cents, for the use of the prothonotary,

for entering the report of the treasurer and acknowledgment of the treasurer's deed, as hereinafter mentioned; and in case said amount is not forthwith paid, after the property is struck down, the sale may be avoided and the property immediately put up again by the said treasurer; *Provided, however,* That this section shall not apply when the lands are purchased by said city.

26. It shall be the duty of the city treasurer, at the first term of a court of common pleas of the proper county succeeding such sale, to make a report and return; wherein he shall set forth a brief description of the land or property sold, the name of the person (where known) in which the same is assessed, the amount of tax, and the year for which the same is assessed, the time when and the newspapers in which the advertisement for sale was made, with a copy of said advertisement, the time of sale, the name of the purchaser, and the price for which each respective property was sold; and upon the presentation of said report or return, if it shall appear to said court that such sale has been regularly conducted, under the provisions of this act, the said report and the sale so made shall be confirmed nisi; in case no objections or exceptions are filed to said sales within ten days, a decree of absolute confirmation may be entered, as of course, by the prothonotary. In case any objections or exceptions are filed, they shall be disposed of according to the practice of said courts; and when the same are overruled or set aside, a decree of absolute confirmation shall be entered, as aforesaid; but all objections or exceptions shall be confined to the regularity of the proceedings of said treasurer.

27. After any sale of property or lands for delinquent taxes has been confirmed by the court, as aforesaid, it shall be the duty of the purchaser or purchasers, where the bid exceeds the taxes and costs as aforesaid, to make and execute to the said treasurer, for the use of the persons entitled, a bond for the surplus money that may remain after satisfying and paying all the taxes and costs, as aforesaid, with warrant of attorney to confess judgment annexed thereto; and it shall be the duty of said treasurer to forthwith file said bond in the office of the prothonotary of the proper county, at the number and term where said report and return is filed; and the surplus bond, filed as aforesaid, from the time of the date of the deed for property thus sold, shall bind as effectually, and in like manner as judgments, the land by said treasurer sold, into whose hands or possession soever they may come; and the owners of said lands at the time of sale, their heirs or assigns, or other legal representatives, may, at any time within five years after such sale, cause judgment to be entered in said court upon said bond, in the name of said treasurer, for the use of said owners, their heirs, assigns or

30 March 1906  
Upon non-payment, property may be resold.

Id. § 5.

City treasurer to make return of sale to court.

Contents of return.

Confirmation of report.

Disposition of exceptions to sale.

Id. § 6.

Purchaser to give bond to treasurer for surplus of purchase money.

Bond to be filed in prothonotary's office.

Bond to be lien.

Owner may have judgment entered thereon.

30 March 1908 legal representatives (as the case may be), and in case the moneys mentioned in said bonds, with legal interest thereon from the time it is demanded, be not paid within three months after such entry, execution may forthwith issue for the recovery thereof.

Execution.

Id. § 7.

City treasurer to execute deed to purchaser.

Acknowledgment and recording of deed.

Fee of prothonotary.

Id. § 8.

Proceedings in case of redemption.

On payment of redemption moneys, treasurer's deed to be cancelled.

Purchase money to be refunded.

Record of redemption.

Id. § 9.

Repeal.

28. When the purchaser has paid the amount of his bid, or such portion thereof as he is required to pay under this act, and has given the surplus bond as above required, it shall be the duty of the city treasurer to make the said purchaser or purchasers his or their heirs or assigns, a deed in fee simple for the lands sold, as aforesaid, and the said deed or deeds to duly acknowledge in the court of common pleas; and such acknowledgment shall be duly entered and recorded by the prothonotary of said court in the treasurer's deed book, and for such service and the entry of the report of said treasurer said prothonotary shall receive the sum of one dollar and fifty cents.

29. Where the owner or other person interested in the land thus sold shall redeem the same, it shall be the duty of the city treasurer to acknowledge the receipt of the redemption moneys, upon the margin of the acknowledgment of the treasurer's deed, as the same is entered and recorded in the prothonotary's office, as aforesaid, and thereafter said deed shall be void and of no effect; and thereupon such owner or person interested, as aforesaid, shall be entitled to have the treasurer's deed delivered up to him, her or them, by the purchaser, for cancellation. And it shall be the duty of the said treasurer to pay to said purchaser all the moneys he had paid at the time of sale, together with the twenty-five per centum penalty thereon; and it shall also be the duty of said treasurer to enter upon the book of sales kept by him, as hereinbefore provided, an acknowledgment or receipt showing that the owner or party interested redeemed the same therein, giving date of redemption and amount of money received.

30. All general laws so far as the same are in conflict herewith are hereby repealed, but this act shall not apply to the sale of lands for taxes where the same is regulated by local laws.<sup>1</sup>

### III. Lien of Taxes.

22 May 1895.  
§1. P. L. 111.

Lien of taxes to be divested by judicial sale.

31. The lien of all taxes now or hereafter to be levied or assessed against any real estate within this commonwealth shall be divested by any judicial sale of such land; *Provided*,

<sup>1</sup> This act appears wholly to supersede and supply the provisions of Art. XV. of the Third Class Cities Code of May 23, 1889, secs. 13-19, P. L. 320-323, pub-

lished in the former edition of the Digest, and they have therefore been here omitted.

The amount of the purchase money shall equal the amount of the said taxes.<sup>1</sup> 22 May 1895.  
Proviso.

32. It is hereby made the duty of any officer having taxes for collection against any land advertised to be sold, or of the county commissioners before the taxes have been certified for collection, to give notice to the officers or person selling any such land of the amount of taxes against the same, and the officer selling such land shall pay said taxes out of the proceeds arising from the sale first after payment of the costs of sale. Id. § 2.  
Officers charged with collection of taxes to give notice of amount of tax due.  
Taxes to be first paid out of proceeds, after costs.

33. When the lien of a mortgage upon real estate is or shall be prior to all other liens upon the same property, except other mortgages, ground rents and purchase money due the commonwealth, and except taxes, municipal claims and assessments not at the date of said mortgage duly entered as a lien in the office of the prothonotary of the proper county, and except taxes, municipal claims and assessments, whose lien though afterwards accruing has by law priority given it, the lien of such mortgage shall not be destroyed or in any wise affected by any judicial or other sale whatsoever, except as hereinafter stated, whether such sale be made by virtue or authority of any order or decree of any orphans' or other court, or of any writ of execution or otherwise, howsoever; *Provided*, That this section shall not apply to cases of mortgages upon unseated lands or sales of the same for taxes. 8 May 1901.  
§1. P. L. 141.  
Priority of lien of mortgages.  
Proviso.

34. All acts and parts of acts, general and special, inconsistent with the provisions of this act be and the same are hereby repealed. Id. § 2.  
Repeal.

#### IV. Collection of Municipal Assessments.

35. All special taxes levied, or assessments made for water frontage tax, light frontage tax, sewerage tax, piping, paving, re-paving, curbing or re-curbing sidewalks, grading, changing grades of, macadamizing or paving any public street, lane or alley, or part thereof, for assessments of damages or benefits, and contributions lawfully imposed for the opening, widening, or vacation thereof, or the changing of water-courses, and for all other purposes except general taxes (the remedies for the collection of which shall be as herein provided), that may be the subject of claim entered in pursuance of this or any other act and the laws and ordinances of any of 23 May 1899.  
Art. XV,  
§20. P. L. 323.  
Assessments for cost of municipal improvements to be paid as provided by ordinance.

<sup>1</sup> This act did not give a lien for taxes on real estate; it applies only to such taxes as are made liens by other acts, which it directs to be first paid out of the proceeds of judicial sales. *Snyder v. Morgart*, 5 Dist. R. 146; *United Security Life Ins. Co. v. Dougherty*, Id. 521; *Theurer's App.*, 5 Super. Ct. R. 225; *Provident Building, etc., Assn. v. Flanagan*, 6 Dist. R. 439; *Strassburger v. Guinter*, 23 Pa. C. O. R. 481. The Act of June 2, 1881, P. L. 45, "to make taxes assessed upon real estate a first lien, and

to provide for the collection of such taxes and a remedy for false returns," is unconstitutional because excepting from its provisions cities of the first, second and fourth classes, and being therefore a local law within the prohibition of special legislation. *Van Loon v. Engle*, 171 Pa. 157. The Act of April 30, 1885, P. L. 11, relative to assessment and collection of taxes in cities of the third, fourth and fifth classes was an option act, and therefore presumably unconstitutional.

23 May 1889.  
Art. XV.

Penalty and  
interest.

Id. § 21.

Assessments  
to be lien for  
six months  
without filing  
of specifica-  
tion.

Fee of pro-  
thonotary  
for entering  
lien.

Sufficiency of  
specification.

To be lien  
for ten years  
from date of  
entry.

Amendment.

Priority of  
lien.

said cities, shall be paid within such time as councils may provide by ordinance, and if not so paid five per centum penalty shall be added thereto, and such claim shall also bear interest at such rate per centum as may be fixed by ordinance, not exceeding six per centum.<sup>1</sup>

36. Such taxes and assessments shall be and remain first liens on the respective pieces of land fronting on the streets in which the improvement is made, or on the land assessed for such improvement or benefits, as the case may be, from the commencement of the improvement for which the assessments were made until six months after the completion of the work, and no longer, unless a specification of lien be filed in the prothonotary's office of the county in which the city is located, in the city lien docket, within said period. The prothonotary shall be allowed a fee of twenty-five cents for filing and entering a lien under the provisions of this act, to be taxed as part of the costs in the case. Such specification of lien shall be deemed sufficient if it designates the date and amount of assessment, the land assessed and the name of the owner or reputed owner, and shall have the effect of extending such lien for a period of ten years from the date of entry, and shall be amendable at or before trial in such manner as will meet the facts and merits of the case; and said lien shall have priority to, and shall be fully paid and satisfied before any other lien or incumbrance of whatsoever kind or nature with which the land assessed may become charged, and shall not be divested by any judicial sale except as to such portion of the proceeds of the sale as may actually be applied for the payment of such lien.<sup>2</sup>

<sup>1</sup> The section amended as above by Act of May 18, 1901, § 32, P. L. 248.

<sup>2</sup> See *Morris v. Hainer*, 16 Pa. O. O. R. 468; 4 Dist. R. 635; *Altoona v. Esbrenner*, 21 Pa. O. O. R. 839; 7 Dist. R. 740;

*Scranton v. Robertson*, 28 Super. Ct. R. 55. This section is supplied in part by the Act of June 4, 1901, P. L. 864; title "Municipal Claims," *ante*.

## Telegraph and Telephone Companies.

1. Incorporation of telegraph, telephone, etc., companies under general corporation act of 1874.

2. Location of business.

3. Powers of such companies to occupy streets and highways. Fixtures not to interfere with public use thereof.

4. Permission to erect poles or wires to be obtained from municipal authorities, subject to necessary regulations.

5. Determination of disputes regarding license fees of telegraph, telephone, etc., companies. Petition to court of common pleas. Citation. Answer. Hearing and decision.

6. Rules and orders.

7. How license fee to be determined.

8. Appeal.

9. Limitation of applications.

10. Duties and liabilities of corporation to remain unaffected.

11. Corporations using electrical current may contract with each other for mutual use of systems. Proviso.

12. No prescriptive right to be acquired.

13. Liability of company for damage to trees along public highway. Land owner may petition to court. Viewers to be appointed. Report of viewers. When judgment to be entered on award.

14. Compensation of viewers. Act not to apply to police or fire-alarm telegraph.

1 May 1876.  
§ 1. P. L. 90.

1. Corporations of the second class may be formed and created in the manner provided for by the act to which this is a supplement,<sup>1</sup> and with all the rights and powers therein

<sup>1</sup> The General Corporation Act of April 29, 1874, P. L. 73.

granted, for the purpose of constructing, maintaining and leasing lines of telegraph for the private use of individuals, firms, corporations, municipal and otherwise, for general business, and for police, fire-alarm or messenger business, or for the transaction of any business in which electricity over or through wires may be applied to any useful purpose.<sup>1</sup>

2. The business of such corporation may be wholly within or partly within and partly without the limits of any city, borough or township in this state, or partly in any other state or states.

3. I. Such corporation shall be authorized, when incorporated as hereinbefore provided, to construct lines of telegraph and telephone along, under and upon any of the public roads, streets, lanes or highways, across or under any of the waters within the limits of this state, by the construction of the necessary fixtures, including wires, cables, posts, piers, abutments or subways, subject to the reasonable regulations of the municipalities through which it passes, but the same shall not be so constructed as to incommode the public use of said roads, streets, lanes or highways,<sup>2</sup> or injuriously interrupt the navigation of said waters; and this act shall not be so construed as to authorize the construction of a bridge across any of the waters of this state.<sup>3</sup>

4. Before the exercise of any of the powers given under this act, application shall be first made to the municipal authorities of the city, town or borough in which it is proposed to exercise said powers, for permission to erect poles, or run wires on the same, or over or under any of the streets, lanes or alleys of said city, town or borough, which permission shall be given by ordinance only, and may impose such conditions and regulations as the municipal authorities may deem necessary.<sup>4</sup>

<sup>1</sup> This act sufficiently expresses its purpose to incorporate telephone companies, since the latter are virtually telegraph companies. A telephone company is regarded as a telegraph company within the meaning of the corporation statutes of Pennsylvania; is a quasi public corporation and there is therefore no reason forbidding its exercise of the right of eminent domain. *York Telephone Co. v. Keesey*, 5 Dist. R. 366. See, also, *Central Penna. Telephone Co. v. Wilkesbarre, etc., Railway Co.*, 1 Id. 628; *Commonwealth v. Penna. Telephone Co.*, 18 Phila. R. 588; *People's Telephone, etc., Co. v. Berks & Dauphin Turnpike Road*, 199 Pa. 411.

<sup>2</sup> The erection of a telephone pole in front of the doors or windows of a building will be restrained by injunction when it appears that it could be placed a few feet distant without impairing its efficiency. *Russ v. Penna. Telephone Co.*, 3 Dist. R. 654.

<sup>3</sup> This clause amended as above by the Act of April 22, 1905, P. L. 294.

<sup>4</sup> So amended by Act of June 25, 1885, P. L. 164. A city has the right in the exercise of its police power to supervise

and control the erection and maintenance of telegraph poles and wires within its limits, and to impose a reasonable license tax on each pole; such a tax is not a restriction of interstate commerce. *Allentown v. Western Union Telegraph Co.*, 148 Pa. 117; *Chester v. Phila., Reading and Pottsville Telegraph Co.*, Id. 120; *McKeesport v. Passenger Railway Co.*, 2 Super. Ct. R. 242; *Harrisburg v. Penna. Telephone Co.*, 3 Dist. R. 815. See *infra*, 5 as to determination of disputes regarding the amount of the license fee. It is the imperative duty of a municipality to exercise a rigid inspection of and scrutiny over the proper erection and adjustment of poles and wires permitted on its streets for electrical service. *McKeesport v. Passenger Railway Co.*, *supra.*; *Mooney v. Luzerne Borough*, 186 Pa. 161. See, also, as to extent of municipal control, *Commonwealth v. Warwick*, 185 Pa. 623; *New Castle v. Central Dist., etc., Co.*, 207 Id. 371; *Keystone State Telephone Co. v. Ridley Park Boro.*, 28 Super. Ct. R. 635; *W. Conshohocken v. Electric Co.*, 29 Id. 7; *Telephone Co.'s Petition*, 31 Pa. C. C. R. 481.

<sup>1</sup> May 1876.  
Incorporation of telegraph, telephone, etc., companies, under general corporation Act of 1874.

Id. § 2.  
Location of business.

29 April 1874.  
§ 88. P. L. 92.  
Powers of such companies to occupy streets and highways.

Fixtures not to interfere with public use thereof.

<sup>1</sup> May 1876.  
§ 4. P. L. 90.

Permission to erect poles or wires to be obtained from municipal authorities, subject to necessary regulations.

17 April 1905.  
§ 1. P. L. 183.

Determination  
of disputes re-  
garding license  
fees of tele-  
graph, tele-  
phone, etc.,  
companies.

Petition to  
court of com-  
mon pleas.

Citation.

Answer.

Hearing and  
decision.

Id. § 2.

Rules and  
orders.

Id. § 3.

How license  
fee to be de-  
termined.

Id. § 4.

Appeal.

5. Whenever hereafter any dispute shall arise between any township, city, borough, or other municipal corporation of this state, having authority under the law to charge a license fee against any telegraph, telephone, or light, or power company, occupying the highways of said municipality with its poles, wires, conduits or cables, as to whether or not the amount of license fee named in any ordinance of said municipal corporation, for the inspection and regulation of the said poles, wires, conduits, or cables under its police powers, is or is not reasonable, either party may apply by petition to the court of common pleas of the county where said municipal corporation is situated, to determine the said dispute. Upon the filing of said petition, setting forth the nature and character of the dispute, and the facts bearing upon the question thus raised, the said court shall issue a citation to the respondent, commanding it to appear and answer the said petition at a time named, and to abide by and obey the order of the court. Said citation and a copy of said petition shall be served upon the respondent, not less than fifteen days before the time fixed for answering. To said petition the respondent shall make answer, within the time fixed or such extension thereof as the court shall allow, specifically answering the facts set forth in said petition, and averring such other or further facts as it shall deem necessary for the proper determination of the said dispute. At any time after the return day fixed in the said citation, the said court shall, upon application of either party, fix a date for the hearing of the issue raised by said petition and answer; and thereupon shall take the evidence, and decide the said dispute in the way and manner provided by law for the hearing of cases in equity.

6. Said court shall have power to allow any pleading to be amended, to make all necessary, general or special rules or orders for the production of evidence and to expedite the said hearing, and may hear and determine the matter ex parte if the respondent fails to answer or appear at the time fixed for the hearing.

7. The said court, in its decision of said dispute, shall determine the amount of annual license fees which should be paid to the said municipal corporation in order to properly compensate it for the necessary cost of the services performed, or to be performed, by it, for the inspection and regulation of the poles, wires, conduits, or cables of the said telegraph, telephone, light, or power company; and the amount thus determined shall be the maximum sum which the said municipal corporation shall be authorized to charge as license fees against such petitioning corporation.

8. Either party shall have the right of appeal from the order of the court, to the supreme or superior court, as in other cases.



9. The amount of such annual license fees, as determined <sup>17 April 1906.</sup> by the final order of the court, shall continue until altered <sup>§ 5.</sup> by the court itself; but no application shall be made for that <sup>Limitation of applications.</sup> purpose oftener than once in every two years.

10. Nothing in this act contained shall be so construed <sup>Id. § 6.</sup> as to alter or affect the duty of said telegraph, telephone, <sup>Duties and liabilities of corporation to remain unaffected.</sup> light, or power company to properly erect, or construct and maintain, its poles, wires, conduits, and cables, or to relieve it from liability for negligence in regard thereto either primarily to the person injured, or secondarily to the municipal corporation, if judgment be recovered against it by the person injured by reason of such negligence.

11. It shall and may be lawful for corporations, for what <sup>19 March 1903.</sup> purpose soever formed, and lawfully using electrical cur- <sup>§ 1. P. L. 24.</sup> rent, within this commonwealth, to enter into contracts with <sup>Corporations using electrical current may contract with each other for mutual use of systems.</sup> each other for use of the same poles, wires and conduits, or for the purchase and sale of electrical current, or for the lease and operation of each others' systems, upon such terms and conditions as they may agree upon; *Provided*, That <sup>Proviso.</sup> nothing in this act contained shall be construed to give to any company any rights to erect or maintain poles, wires or conduits upon any street or road not already so occupied; unless the consent of the local authorities shall have been first obtained.

12. Whenever any wire or cable used for any telegraph, <sup>19 April 1889.</sup> telephone, electric light or other wire or cable for electric <sup>§ 1. P. L. 12.</sup> purposes, is or shall be attached to, or does or shall extend <sup>No prescriptive right to be acquired.</sup> upon or over any building or land, no lapse of time whatsoever shall raise a presumption, or justify a prescription of any perpetual right to such attachment or extension.

13. From and after the passage of this act it shall be law- <sup>2 June 1891.</sup> ful, whenever any telegraph, telephone or electric light com- <sup>§ 1. P. L. 170.</sup> pany shall have erected its poles and lines along any turn- <sup>Liability of company for damage to trees along public highway.</sup> pike, public road, street, lane, alley or highway in this commonwealth, for the owner or owners of land adjoining said turnpike or public road who may claim to be damaged by the erection or maintenance of said lines by reason of the cutting of trees, whether planted in the said turnpike, public road, street, lane, alley or highway, or on inclosed or uninclosed land adjoining the same, to petition the court of common pleas of the county in which said damage shall be <sup>Land owner may petition to court.</sup> alleged to have been committed, whereupon the said court shall appoint three impartial men, citizens of the county in which said damages shall be alleged, as viewers, who shall, <sup>Viewers to be appointed.</sup> after having been duly sworn or affirmed to the faithful performance of their duties, assess the damages done, if any, to the petitioner, and shall report the same to the said court <sup>Report of viewers.</sup> at the first week of the next regular term thereof after the said appointment, which report shall, upon its presentation as aforesaid, be confirmed nisi; and if no appeal be entered

2 June 1891.

When judgment to be entered on award.

Id. § 2.

Compensation of viewers.

Act not to apply to police or fire-alarm telegraph.

to the same on or before ten days from the Saturday of the week in which the same is presented, it shall then be confirmed absolutely and judgment entered by the prothonotary of the said court upon the same, against the said company.

14. The compensation of the viewers provided for by the first section of this act shall be the same as is now provided for road viewers, and shall be paid by the defendant company where damages are awarded, otherwise by the petitioner; *Provided*, That the provisions of this act shall not apply to the police patrol or fire department telegraph lines.<sup>1</sup>

<sup>1</sup> As to scope and application of this act, see *Marshall v. American Telegraph and Telephone Co.*, 16 Super. Ct. R. 615; *Lewistown Borough v. Juniata and Susquehanna Telephone Co.*, 10 Dist. R. 562. The Act of March 8, 1905, P. L. 33, pro-

hibits the stealing, or cutting, or breaking with intent to steal, the wires of any corporation engaged in transmitting electricity, and prescribes the punishment therefor.

## Terms of Municipal Officers.

1. Terms of municipal officers regulated. To begin on first Monday of April. Elections.

2. Organization of legislative departments. Inauguration of mayors.

10 March 1875.  
§ 1. P. L. 6.

Terms of municipal officers regulated.

To begin on first Monday of April.

Elections.

Id. § 2.

Organization of legislative departments.

Inauguration of mayors.

1. All members of councils, and all other city, ward, borough and township<sup>1</sup> officers, excepting school directors, to be elected on the third Tuesday of February next, or in any year thereafter, whose term of office would, under existing laws, expire prior to the first Monday of April, shall continue in office from the date at which said term would otherwise expire until the first Monday of April next ensuing thereto; and the terms of their successors shall begin on the first Monday of April, and shall continue for the period now fixed for the duration thereof by existing laws in each particular case; and hereafter all elections for officers which will be vacant on the first Monday of April, shall be held on the third Tuesday of February next preceding thereto.

2. The members of legislative departments of the municipal governments of this commonwealth hereafter elected, shall assemble in their respective places of meeting, for the purpose of organization, at ten o'clock in the forenoon of the first Monday in April in each year; and the mayors of all cities of this commonwealth shall be inaugurated and take the official oath at twelve o'clock noon of the same day.

<sup>1</sup> By the subsequent Act of June 4, 1879, P. L. 94, the terms of township

officers begin on the first Monday of March.

## Theatres.

1. Tickets of admission not to be sold on the streets or highways.
2. Penalty for such offence.
3. Certain dangerous exhibitions prohibited. Penalty.

4. Public exhibition of physical or mental deformities, prohibited. Penalty.
5. Employment of children under eighteen for theatrical, etc., performances, without consent of parents or guardians, to be misdemeanor. Penalty.

1. It shall not be lawful for any person or persons to sell, barter or exchange, or offer for sale, barter or exchange, upon the public streets or highways, or in front of any theatre or place of amusement and entertainment, tickets of admission to such theatre or place of amusement and entertainment.

13 June 1898.  
§ 1. P. L. 96.  
Tickets of admission not to be sold on the streets or highways.

2. Any person or persons violating the provisions of this act of assembly shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by a fine of fifty dollars and imprisonment not exceeding three months, or either, or both, for every such offence.

Id. § 2.  
Penalty for such offence.

3. From and after the passage of this act it shall not be lawful for the proprietor of any public place of amusement or resort to perform or have exhibited the shooting of a person from a catapult or other machine, the throwing of knives at a performer, or the shooting at a target held by or placed on the head or near the performer or exhibitor, performing on a trapeze, without a strong netting below the performer, or any other feat or performance that is extra hazardous and jeopardizes the life or lives of any person or persons. Any person violating this act shall be guilty of a misdemeanor, and on conviction shall pay a fine of five hundred dollars, or imprisonment, one or both, at the discretion of the court.<sup>1</sup>

1 June 1898.  
§ 1. P. L. 97.  
Certain dangerous exhibitions prohibited.

4. On and after the passage of this act it shall be unlawful for any person to exhibit in any public hall, museum, theatre, or any other building, tent, booth or public place, for a pecuniary consideration or reward, any insane, idiotic or deformed person, or any imbecile, and whoever shall exhibit such mental or physical deformity shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars, or suffer imprisonment not exceeding six months, or both, or either, in the discretion of the court.

25 June 1898.  
§ 1. P. L. 201.  
Public exhibition of physical or mental deformities, prohibited.

5. Any person, association, agency or corporation who shall take, receive, hire, employ, use, or have in custody, any child under the age of eighteen years, or who shall endeavor to secure by advertisement or otherwise any such minor child for the vocation, occupation, calling, service or purpose of taking part in any theatrical performance, or athletic exhibition, or of singing, or of playing upon musical instruments, without the consent of the parents or legally appointed guard-

16 May 1901.  
§ 1. P. L. 292.  
Employment of children under eighteen for theatrical, etc., performances, without consent of parents or guardians, to be misdemeanor.

<sup>1</sup> The Act of April 11, 1903, P. L. 166, makes it a penal offence to promote or participate in any athletic contest or exhibition in which the contestants shall take part for more than twelve hours in

each calendar day. This law seems to be directed more particularly to the restraining of over strenuous modern pedestrian and bicycle performances.

16 May 1901. ians of such child having been first obtained, shall be guilty of a misdemeanor, and upon conviction thereof before any justice of the peace, magistrate or court of record, shall be fined not less than fifty dollars and not more than one hundred dollars. And upon second conviction, shall be imprisoned not less than one year and not more than three years.<sup>1</sup>

Penalty.

<sup>1</sup> The Act of July 9, 1881, P. L. 162, prohibits the granting of a license to sell liquors to the proprietors, lessees, keepers or managers of any theatre, circus, museum or other place of amusement, or to any other establishment having passage to or communicating therewith. See *Martz's License*, 12 Super. Ct. R. 521. The Act of June 24, 1895, P. L. 249, fixes the amount of the state license to be paid by theatres, museums, circuses, menageries, etc., in cities, boroughs and townships, respectively, the same to be collected by the county treasurer. Section 3 prescribes that the provisions of the act

shall not exempt any theatrical or operatic company, or circus or menagerie, or museum, from the payment of such taxes as may be imposed upon them by any city or borough in this commonwealth, in accordance with any ordinance duly enacted in relation thereto. This act is an amendment and codification of all the acts in force at the time of its passage relating to licenses for places of amusement. *Oellers v. Ritter*, 18 Pa. C. C. R. 73; 5 Dist. R. 149; 3 Super. Ct. R. 537, which see for a history of legislation upon the subject.

## Topographical Survey.

1. Topographical survey of city, how to be made.

2. Duties of engineer regarding construction of plan. Grades of proposed new streets. Plan to be made and returned to councils. To be filed with city clerk.

3. Councils to give notice of hearing of objections. On final approval, plan to be recorded. City to be liable in damages for

deviation from plan in regulations of streets.

4. Plans may be executed and confirmed in sections.

5. No damages to be recoverable by owner building within line of street. Proceedings for opening, etc., of streets under survey to be governed by this act.

23 May 1886.

Art. XVII.,  
§ 1. P. L. 329.

Topographical  
survey of city,  
how to be  
made.

Id. § 2.

Duties of en-  
gineer regard-  
ing construc-  
tion of plan.

Grades of pro-  
posed new  
streets.

1. Any city of the third class shall have power by ordinance to cause a topographical survey thereof to be made by their duly appointed city engineer, or by such other civil engineer and assistants as they may employ for that purpose.<sup>1</sup>

2. It shall be the duty of said engineer, upon being duly authorized thereto, to procure and keep in his office such necessary plot or other books as shall be necessary for the purpose of entering or recording thereon all the streets, avenues and highways of the city already opened or to be hereafter opened, and to survey and mark the lines of all the streets, avenues and highways of the city already opened, or intended to be opened for public use, and to survey and lay out such new streets, avenues and highways as councils may deem necessary for a regular and convenient city plan; and if thereto specially directed, he shall fix and report a grade for any proposed new streets, and for the said purposes the said engineer and his assistants shall have full power and authority to enter upon the lands and premises of any person or persons within the said city. When the survey shall be completed, the said engineer shall make or cause to be made a draft or plan thereof, with every position and explanation

<sup>1</sup> By section 56 of the Act of May 23, 1874, P. L. 269, it was provided that "Any city of the third class accepting the provisions of this act that shall have already adopted a topographical survey

under authority of existing laws, shall have the right to preserve and continue the same, with like effect as though they had not accepted the provisions hereof."

necessary for a full understanding of the same, distinctly designating where the new streets, avenues and highways shall thereafter be opened, and shall return the same to the councils; and it shall remain in the office of the city clerk, and open to inspection by those interested, until finally approved as hereinafter provided.<sup>1</sup>

3. It shall be the duty of the said councils to give at least thirty days' previous notice, in at least two of the public newspapers published in said city (if so many be published therein), and by posting at least ten hand bills upon the land or territory contained in the map or plan returned for approval, that on a certain day or days to be fixed by the said councils, the said councils in joint session will hear any objections that may be made to said draft or plan by any freeholder or citizen of said city or interested person; and the councils at the time appointed, or at any subsequent time within three months, shall determine whether any and what alterations shall be made in the said plan or draft; and when the same is finally approved, whether as returned or as altered and changed, said councils may direct that the same be entered and recorded in the plot book of street plans in the office of the city engineer. In case the city engineer is directed to report grades for said streets, avenues or highways, the same shall be noted on said draft or plan and be returned with his surveys; and said grades shall be subject to alterations and changes by councils in the manner aforesaid, and when approved by the said councils shall become part of the plans and be entered and recorded as aforesaid. Upon the recording of said plan or draft in the street plan book, and the passage of an ordinance approving said street drafts or plans and grades (or of either as the case may be), therein designating the book and page or pages at or in which the said plan or plans are recorded, thereafter all the streets, avenues and highways, as designated upon said approved plan and recorded as aforesaid, shall be adjudged and taken to be laid out and located public highways; and in case the city councils shall thereafter change or alter, or should they by themselves or their officers deviate from the regulations of the streets, avenues or highways, so as aforesaid established, and damages thereby accrue to the property of any person or persons in consequence thereof, the said city shall be liable for the payment of such damages. Sectional surveys or drafts may be returned to the said councils by said engineer at any time and be confirmed as aforesaid, and with like force and effect.

28 May 1889.  
Art. XVII.

Plan to be made and returned to councils.

To be filed with city clerk.

Id. § 8.

Councils to give notice of hearing of objections.

On final approval, plan to be recorded.

City to be liable in damages for deviation from plan in regulations of streets.

<sup>1</sup> This and the next succeeding section amended as here published by Act of May

16, 1901, §§ 37, 38, P. L. 256-257.

28 May 1889.  
Art. XVII.  
§ 4.

Plans may be  
executed and  
confirmed in  
sections.

4. The said engineer may, from time to time, as he shall deem expedient, and the said councils shall direct, make report of the surveys, plans and regulations by him made, in convenient sections, without awaiting the completion of the entire survey, and shall make duplicate drafts and plans of said sections in the manner hereinbefore prescribed, and the same proceedings shall be had for the final confirmation of such partial or sectional drafts and plans as is herein directed in relation to the confirmation of the entire survey, and with the like force and effect.

Id. § 5.

No damages to  
be recoverable  
by owner  
building with-  
in line of  
street.

Proceedings for  
opening, etc.,  
of streets un-  
der survey to  
be governed  
by this act.

5. If any owner or owners of real estate, or other persons, shall erect or construct any house or other building within the line of any street, avenue or highway, as surveyed and marked on the draft or plan aforesaid, or upon any section thereof, after the final confirmation of the same, such owner or person shall not be entitled to claim or recover any damages which may be caused by the removal of such house or building, for the opening or widening of any such street, avenue or highway.<sup>1</sup> All proceedings for the opening, widening, grading or otherwise improving any of the public streets, avenues or highways, so as aforesaid surveyed, established and confirmed, and the payment of damages or contributions therefor, shall be regulated and governed by the provisions of this act.<sup>2</sup>

<sup>1</sup> In *Shaabar v. Reading*, 150 Pa. 402, held that damages are not recoverable under such circumstances for the termination of a leasehold interest. See Act of May 16, 1891, sec. 12, P. L. 80, relative to forfeiture of right to recover damages where building is erected on line of street, after confirmation of plan; also *Bush v. McKeesport*, 166 Pa. 57.

<sup>2</sup> See *Opening of Spring Street*, 112 Pa. 258, and *Shaabar v. Reading*, 133 Id. 643, as to the applicability of the Act of May 23, 1874, to proceedings for opening of streets under local acts antedating it, vesting the jurisdiction in the court of quarter sessions.

## Toy Guns.

1. Discharge of air guns, etc., in streets, prohibited.

2. Penalty.

15 April 1903.  
§ 1. P. L. 193.  
Discharge of  
air guns, etc.,  
in streets,  
prohibited.

1. Six months after the passage of this act it shall be unlawful for any person to discharge, on the streets or alleys, of any city or borough in this commonwealth, a flobert rifle, air gun, spring gun, or any implement which impels with force a metal pellet of any kind.

Id. § 2.

Penalty.

2. Any person violating this act shall be arrested, and fined in the sum of five dollars before any committing magistrate; and for the second offense, shall be fined in the sum of fifteen dollars, and may undergo an imprisonment in the county jail for a period not less than ten days and not exceeding thirty days, the person so offending to pay all costs of prosecution.

## Traction Motor Companies.

1. Incorporation of traction motor companies. Power to operate passenger railway lines. Operation to be subject to municipal regulations. Consent of municipal authorities to be obtained. Existing corporations to file stipulation not to occupy streets without municipal consent.  
2. Corporate powers. To lease and operate passenger railways.  
3. Street passenger railway companies may lease or sell their lines to traction motor companies. Or contract for construction of traction apparatus. Or make contracts for operation of lines by traction motor companies. Steam power not to be

used. Consent of municipal authorities required for occupation of streets by traction motor companies.

4. Traction motor companies authorized to sell or lease their lines to other companies. Or make contracts for operation of their lines. *Proviso.*

5. Traction motor or street railway companies may operate different lines as general system. New routes may be laid out and operated. Not to occupy tracks of street car lines without consent of companies. Term to be limited by existing lease.

1. Corporations may be formed in the manner hereinafter<sup>22 March 1887.</sup> mentioned, by the voluntary association of five or more persons, for the construction and operation of motors and cables<sup>§ 1. P. L. &</sup> or other machinery for supplying motive power to passenger<sup>Incorporation of traction motor companies.</sup> railways and the necessary apparatus for applying the same; and such corporations shall have the power to enter upon any<sup>Power to operate passenger railway lines.</sup> street upon which a passenger railway now is, or may hereafter be constructed, with the consent of said passenger railway company, and make, construct, maintain and operate thereon such motors, cables, electrical or other appliances, and the necessary and convenient apparatus and mechanical fixtures as will provide for the traction of the cars of such passenger railway,<sup>1</sup> and to enter into contracts with passenger railway companies to construct and operate motors, cables or other appliances necessary for the traction of their cars; *Provided*, Any such construction and operation shall be subject<sup>Operation to be subject to municipal regulations.</sup> to such reasonable regulations for the protection of public travel on any street so occupied as shall be required by any borough, town or city in which the same may be located, by ordinance duly enacted; *And provided further*, That no company which may hereafter be incorporated under this act shall enter upon any street for the purpose of constructing thereon or therein any such motors, cables or other appliances until after the consent to such entry of the councils of the borough, town or city in which said street may be located shall have been obtained, and that no company heretofore incorporated shall be permitted to avail itself of the provisions of the ninth section of this act until after it shall have filed<sup>Consent of municipal authorities to be obtained.</sup> in the office of the secretary of the commonwealth its stipulation, duly sealed and attested, binding it not to enter for the purpose aforesaid upon any street not theretofore occupied<sup>Existing corporations to file stipulation not to occupy streets without municipal consent.</sup> by it with such motors, cables or other appliances without such consent to such entry of the councils of the borough, town or city in which said street may be located.

2. When so formed, each of such corporations, by virtue of its existence, shall have the following powers: \* \* \* \* \*

<sup>1</sup>The right of making repairs to a trolley railway and of occupying the streets for that purpose is incident to the right

to maintain the line. *Potter v. Scranton Traction Co.*, 176 Pa. 271.

22 March 1887.

To lease and operate passenger railways.

15 May 1895.

§ 1. P. L. 68.

Street passenger railway companies may lease or sell their lines to traction motor companies.

Or contract for construction of traction apparatus.

Or make contracts for operation of lines by traction motor companies.

Steam power not to be used.

Consent of municipal authorities required for occupation of streets by traction motor companies.

15 May 1895.

§ 1. P. L. 64.

Traction motor companies authorized to sell or lease their lines to other companies.

Eighth. To lease the property and franchises of passenger railway companies which they may desire to operate, and to operate said railways.<sup>1</sup>

3. Any street passenger railway company heretofore, or which may hereafter be incorporated in this commonwealth, under general or special laws, whose line or lines are not on township or country roads, is hereby authorized to sell or to lease, or to lease and to sell its property and franchises to any traction or motor power company incorporated under the laws of this commonwealth, not operating a line or lines of railway on township or country roads, upon such terms as shall be agreed upon. Any such railway company may also contract with any such traction or motor power company or companies for the construction upon and along its line of railway, and that of any companies operated or controlled by it, whose line or lines are not on township or country roads, of motors, cables, electric or other apparatus and appliances, and for the payment of the price thereof by bonds to such extent as may not exceed its issued full paid capital stock, secured, if it shall be deemed advisable, by mortgages of its franchises and property. Contracts may also be entered into between such companies for the operation of the lines of railway of such railway companies by such traction or motor power companies as operators, lessees or otherwise, by means of cables, electric and other appliances and fixtures, and also by means of any motive power which could lawfully be used upon the line owned, leased or operated by said railway company; *Provided*, That nothing herein contained shall be construed as permitting the propulsion of cars along the line of any street passenger railway by means of steam; *And provided further*, That no traction or motor power company shall enter upon any of the streets or highways of any city or borough for the construction thereon of any of the appliances or fixtures necessary to operate any street passenger railway company by cables, electricity or mechanical device or power, until after the consent of the municipal or local authorities shall be given to an entry upon such streets or highways for the purpose of such construction.

4. Any traction or motor power company heretofore or hereafter incorporated under the laws of this commonwealth, is hereby authorized to sell or to lease, or to lease and to sell its property and franchises, as well those owned as those leased, operated or controlled by it, including so much of any line or lines of passenger railways owned, leased or controlled by it as is located upon [any] street or streets, to any other traction or motor power company incorporated under the laws of this commonwealth, upon such terms as may be

<sup>1</sup> This provision is not unconstitutional, and under it passenger railway companies have the implied power to lease their

roads to motor power companies. *Pinkerton v. Traction Co.*, 193 Pa. 229.



agreed upon. Such traction or motor power company may also enter into contracts with other traction or motor power companies incorporated under the laws of this commonwealth for the operation of lines of railway and property owned, leased, operated or controlled by it; *Provided*, That nothing herein contained shall be construed as authorizing any traction or motor power company to acquire, lease or operate so much of the line of any other motor power company as occupies any township, borough or county road.

15 May 1895.

Or make contracts for operation of their lines.

Proviso.

5. From and after the passage of this act it shall be lawful for any traction or motor power company, or street passenger railway company, owning, leasing, controlling or operating different lines of street railways of different companies, to operate as a general system so much of said different lines as occupy streets, and from time to time to lay out such new routes or circuits over the whole or any part of such street or streets occupied by the tracks of the different companies which it thus owns, leases, controls, or operates, and upon such routes or circuits to run cars for such distances and in such directions as will in the opinion of the operating company best accommodate public travel; *Provided*, That nothing in this act contained shall be construed to give any traction or motor power company, or street passenger railway company, any authority to run its cars upon the tracks of any street passenger railway company not owned, leased, controlled or operated by it without the consent of such company, or the consent of the traction or motor power company owning, leasing, controlling or operating such company;<sup>1</sup> *Provided, however*, That such consent by any traction or motor power company leasing, controlling or operating such street passenger railway company shall not be given for any longer term than is covered by the agreement for such lease, control or operation.

15 May 1895.  
§ 1. P. L. 65.

Traction, motor or street railway companies may operate different lines as general system.

New routes may be laid out and operated.

Not to occupy tracks of street car lines without consent of companies.

Term to be limited by existing lease.

<sup>1</sup> As to right of traction companies to cross steam railroads at grade, see *Traction Co. v. Canal Co.*, 1 Super. Ct. R. 409.

## Tramps.

[See VAGRANTS.]

1. Definition of tramp. Punishment.  
When to be discharged.  
2. Penalty for certain offences committed by tramps.

3. Prima facie evidence.  
4. Arrest of offenders.  
5. To whom act not applicable.

1. Any person going about from place to place begging, asking or subsisting upon charity, and for the purpose of acquiring money or a living, and who shall have no fixed place of residence, or lawful occupation in the county or city in which he shall be arrested,<sup>1</sup> shall be taken and deemed to be

30 April 1879.  
§ 1. P. L. 38.

Definition of tramp.

<sup>1</sup> One having a fixed place of residence within the county, though guilty of occasional acts of beggary and vagrancy elsewhere within the same county, cannot be

held as a tramp within the meaning of this section. *Commonwealth v. Gill*, 7 W. N. C. 557.

30 April 1879.

Punishment.

When to be discharged.

Id. § 2.  
Penalty for certain offences committed by tramps.

Id. § 3.  
Prima facie evidence.

Id. § 4.  
Arrest of offenders.

Id. § 5.  
To whom act not applicable.

a tramp, and guilty of a misdemeanor, and on conviction shall be sentenced to undergo an imprisonment, by separate and solitary confinement at labor in the county jail or work-house, for not more than twelve months, in the discretion of the court; *Provided*, That if any person so arrested can prove by satisfactory evidence that he does not make a practice of going about begging or subsisting upon alms, for the purpose aforesaid, in the manner above set forth, he shall not be deemed guilty of the offense hereinbefore described, and upon such proof shall be discharged from arrest, either by the magistrate before whom he is committed, or by the court upon hearing of the case upon writ of habeas corpus.

2. Any tramp who shall enter any dwelling house against the will, or without the permission of the owner or occupant thereof, or shall kindle any fire in the highway, or on the land of another without the owner's consent, or shall be found carrying any fire-arms, or other dangerous weapon, with intent unlawfully to do injury to, or intimidate any other person, which intent may be inferred by the jury trying the case from the facts that the defendant is a tramp and so armed, or shall do, or threaten to do, any injury not amounting to a felony to any person, or to the real or personal estate of another, shall, upon conviction, be deemed guilty of a misdemeanor, and shall be sentenced to undergo an imprisonment by separate or solitary confinement at labor for a period not exceeding three years.

3. Any act of beggary or vagrancy by any person described by the first section of this act shall be prima facie evidence that the person committing the same is a tramp within the meaning of this act, subject to the proviso contained in section one of this act.

4. Any person upon view of any offense described in this act, may apprehend the offender, and take him before a justice of the peace or alderman, whose duty it shall be, after hearing the evidence, to discharge, or to commit the prisoner for trial, as in the case of other misdemeanors.

5. This act shall not apply to any female or minor under the age of sixteen years, nor to any blind, deaf or dumb person, nor shall it be applicable to any maimed or crippled person who is unable to perform manual labor.<sup>1</sup>

<sup>1</sup> This act does not repeal the Act of May 8, 1876, P. L. 154, relative to va-

grants. *Cumberland County v. Boyd*, 118 Pa. 52.

## Treasurer.

[See TAXES.]

1. Election of city treasurer. Term. Qualifications. Bond. Salary.  
 2. Duties of city treasurer. How accounts to be kept. No moneys to be paid except upon appropriation and warrant. Councils to designate financial depositories. Verification of cash accounts. Suspension pending investigation.

3. Payments to be made on appropriation and warrant. Creation of debt by municipal department.  
 4. Delivery of records, etc., at end of official term. Vacancy in office of treasurer. Term of successor.

1. The treasurer of each of said cities of the third class<sup>23 May 1890.</sup> shall be elected by the qualified voters at the municipal elec-<sup>Art. VIII, § 1. P. L. 501.</sup> tion, and shall hold his office for the term of three years and Election of city treasurer. Term. Qualifications. Bond. until his successor is duly elected and qualified. The city treasurer shall be a competent accountant, and shall have been a resident of the city and an elector thereof for at least three years previous to his election. He shall give a lawful bond to the city, with two or more sufficient sureties, or with a surety or other company authorized by law to act as surety, to be approved by councils, in such sum as they may by ordinance direct, conditioned for the honest and faithful discharge of his official duties, and the safe keeping and payment over of all public moneys entrusted to his care.<sup>1</sup> He shall receive a fixed annual salary, to be provided by ordinance.<sup>2</sup> Salary.

2. The city treasurer shall demand and receive all moneys payable to the city from whatever source, and shall pay all warrants duly countersigned by the city controller. His accounts shall be kept in such manner as to clearly exhibit all the items of receipts and expenditures of the city, the sources from whence the moneys are received, and the objects for which the same are disbursed, and he shall keep separate and distinct accounts of the receipts and expenditures of the city, the sinking fund, and the water and lighting department, respectively, and also of every special fund which may come into his hands.<sup>3</sup> No money shall be paid out of the city treasury unless the same shall have been previously appropriated<sup>Id. § 2. Duties of city treasurer. How accounts to be kept. No moneys to be paid except upon appropriation and warrant.</sup>

<sup>1</sup> The sureties of the treasurer are not liable for a loss occurring by reason of an extra official act or undertaking of their principal, unless they assented to the action which made the loss possible. *Wilkesbarre v. Rockafellow et al.*, 171 Pa. 177.

<sup>2</sup> The section amended as above by Act of May 16, 1901, § 23, P. L. 241. As to the right of the city treasurer to independent compensation by the school district where he acts as treasurer of such district under the Municipal Act of May 23, 1874, see *Scranton S. D. v. Simpson*, 133 Pa. 202; *McCauley v. Easton S. D.*, Id. 493.

<sup>3</sup> See the Act of May 24, 1893, P. L. 125, providing for monthly returns and payments by county and city officers of moneys received by them for the use of the commonwealth. As to the mode of settlement with the state officials by city treasurers, see *Commonwealth v. City of Chester*, 123 Pa. 626. In the collection of the state tax on city loans the city treasurer is the agent of the city and not of the commonwealth, and until the tax is paid to the state treasurer the city is liable for the loss of it occasioned by the misconduct of the city treasurer. *Commonwealth v. Philadelphia*, 157 Id. 558.

23 May 1886.  
Art. VIII.

Councils to  
designate  
financial de-  
positories.

Verification of  
cash accounts.

Suspension  
pending in-  
vestigation.

23 May 1889.  
Art. IV., § 7.  
P. L. 283.

Payments to  
be made on  
appropriation  
and warrant.

23 May 1889.  
Art. VIII.  
§ 3. P. L. 302.

Delivery of  
records, etc.,  
at end of offi-  
cial term.

Vacancy in  
office of  
treasurer.

Term of  
successor.

by councils to the purpose for which it is to be drawn.<sup>1</sup> which shall be explicitly mentioned in the warrant therefor. The treasurer shall keep the public funds in such banks or financial depositories as councils may direct, and shall verify his cash accounts monthly, or whenever required, to the satisfaction of a standing committee of councils and the city controller, and upon the affidavit of a majority of such committee, or of the controller, to any default therein, he may be suspended from office and another treasurer appointed, as councils may determine.

3. No money shall be paid out of the city treasury except upon appropriations made according to law, and on warrant drawn by the proper officer in pursuance thereof,<sup>2</sup> and no municipal department shall create any debt or make any contract except in pursuance of previous authority of law or ordinance.

4. The city treasurer and every other officer of the city receiving or having in his possession any money, accounts, property or effects belonging to the corporation, shall, upon the termination of his office, deliver over the same to the city, or to his duly qualified successor. Any vacancy in the office of city treasurer shall be filled by the vote of a majority of the members elected to councils, in joint convention, and the person so chosen to fill the same shall serve until the first Monday of April succeeding the municipal election occurring at least one month after the happening of such vacancy, at which election a successor shall be elected for the unexpired term.<sup>3</sup>

<sup>1</sup> The court will not grant a mandamus to compel a city treasurer to pay a claim which has not been countersigned by the controller, nor the money to pay it appropriated by the city councils, as required by the Act of May 23, 1874, nor where there is no money in the city treasury except what has been specifically appropriated, and the city's debt has reached the limit fixed by the constitution. *Board of Health v. Harrisburg*, 2 Pears. R. 242.

<sup>2</sup> A municipal corporation cannot be made garnishee in attachment proceedings. *City of Erie v. Knapp*, 29 Pa. 173; *Taylor v. Knipe*, 2 Pears. R. 151. Nor can any department thereof. *Laughlin v. Nevelling*, 17 W. N. C. 268; *Fairbanks Co. v. Kirk*, 12 Super. Ct. R. 210.

<sup>3</sup> This provision supplies that of the Act of May 18, 1876, P. L. 180, relative to filling vacancies in the office.

## Trespass.

[See RAILROADS, II.]

1. Injury to fruit, gardens, etc., punishable. Penalty.
2. Summary conviction before justice or

- alderman. Commitment. Appeal to quarter sessions.
3. Repeal.

8 June 1881.  
§ 1. P. L. 82.

Injury to fruit,  
gardens, etc.,  
punishable.

1. Any person or persons who shall wilfully enter or break down, through or over any field, orchard, garden or yard fence, hot-bed, or green-house, or who shall wrongfully club, stone, cut, break, bark or otherwise mutilate or damage any field crop, nut, fruit or ornamental tree, shrub, bush, plant or vine, trellis, arbor, hot-bed, hot or green-house, or who shall trample, or in any wise injure any grain, grass, vine, vegeta-

bles or other growing crop, or who shall wilfully take or carry away any grain, corn, rye, wheat or other field crop, fruit or vegetable, plants, nuts or berries or any fruit or ornamental trees, vines or shrubs, whether the same be attached to the soil or not, shall be subject to a penalty not exceeding fifty dollars for each and every offense.<sup>1</sup> June 1881. Penalty.

2. Any justice of the peace or alderman, upon information or complaint made before him, by the affidavit of one or more persons, of the violation of said act by any person or persons, shall issue his warrant, directed to any constable or police officer, to cause such person or persons to be arrested and brought before said justice or alderman, who shall hear and determine the guilt or innocence of such person or persons so charged, and if convicted of said offense or offenses, shall be sentenced to pay the said penalty aforesaid attached to said violations, with costs, one-half to go to the party or parties injured to pay for damages sustained, and the remaining one-half to the school fund of the district in which said offense was committed; *Provided*, That the defendant or defendants, on refusing to pay at once said penalty, shall be committed to the common jail of the said county, for a period of not less than one day for each dollar of penalty imposed, unless the defendant or defendants enter in a recognizance, with good security, to answer said complaint on a charge of misdemeanor before the quarter sessions of the peace of the county in which the offense is committed, which court, on conviction of the offense so charged, and failure to pay the penalty imposed by this act, with costs, shall commit said defendant or defendants to the common jail of the county for a period not less than one day for each dollar of penalty imposed. Id. § 2. Summary conviction before justice or alderman. Commitment. Appeal to quarter sessions.

3. All acts or parts of acts heretofore passed and inconsistent herewith are hereby repealed. Id. § 3. Repeal.

<sup>1</sup> So amended by Act of June 18, 1895, P. L. 196, extending the protection of the Act of 1881 to nuts and berries. The latter act repealed that of March 30, 1860, P. L. 362, for the punishment of the same offences in several counties of the state, in respect to the penalty and mode of proceedings. *Hoffman v. Commonwealth*, 123 Pa. 75. See also *Commonwealth v. Clark*, 3 Super. Ct. R. 141. The Act of 1860 was made general by Act of April 17, 1861, P. L. 322, and by a supplement passed May 1, 1861, P. L. 478, its provisions

were enlarged to protect graperies, statutory, vases, fountains, etc. See the Act of May 19, 1879, P. L. 64, punishing the malicious destruction or removal of flowers, shrubbery, etc., in cemeteries, or trespass upon private inclosures therein. The Act of April 14, 1905, P. L. 169, makes it unlawful to trespass upon land posted as private property; the penalties to go to the school district. This act appears to be designed more especially for the protection of rural property.

## Vagrants.

[See TRAMPS.]

- |  |  |
|--|--|
| 1. Who to be deemed vagrants.  | 5. Discharge for good behavior.              |
| 2. Vagrants to be arrested. Trial and conviction. Record. Appeal.            | 6. County to provide work-houses.            |
| 3. Work to be provided for vagrants. Maintenance.                            | 7. Fees of justices and constables. Penalty. |
| 4. Non-resident poor may be returned to their homes. Expenses, how defrayed. | 8. Poor-houses to be work-houses.            |
|  | 9. Certificates of discharge.                |
|  | 10. Fees of justices and aldermen.           |

8 May 1876.  
§1. P. L. 154.

Who to be  
deemed va-  
grants.

1. The following described persons are hereby declared to be vagrants:<sup>1</sup>

I. All persons who shall unlawfully return into any district whence they have been legally removed, without bringing a certificate from the proper authorities of the city or district to which they belong, stating that they have a settlement therein.

II. All persons who shall refuse to perform the work which shall be allotted to them by the overseers of the poor, as provided by the act of June thirteenth, one thousand eight hundred and thirty-six, entitled "An act relating to the support and employment of the poor."

III. All persons going about from door to door, or placing themselves in streets, highways or other roads, to beg or gather alms, and all other persons wandering abroad and begging, who have no fixed place of residence in the township, ward or borough in which the vagrant is arrested.

IV. All persons who shall come from any place without this commonwealth to any place within it, and shall be found loitering or residing therein, and shall follow no labor, trade, occupation or business, and have no visible means of subsistence, and can give no reasonable account of themselves or their business in such place.

Id. § 2.

Vagrants to  
be arrested.

Trial and  
conviction.

2. If any person shall be found offending in any township or place against this act, it shall and may be lawful for any constable or police officer of such township or place, and he is hereby enjoined and required, on notice thereof given him by any of the inhabitants thereof, or without such notice, on his own view, to apprehend and convey, or cause to be conveyed, such person to a justice of the peace, or other committing magistrate of the county, who shall examine such person, and shall commit him, being thereof legally convicted before him, on his own view, or by the confession of such offender, or by the oath or affirmation of one or more credible witnesses, to labor upon any county farm, or upon the roads and highways of any city, township or borough, or in any house of correction, poor-house, work-house or common jail,<sup>2</sup> for a term of not less than thirty days, and not exceeding six

<sup>1</sup> This act is not repealed by the Act of April 30, 1879, P. L. 33 (see title "Tramps"), defining and punishing tramps. *Cumberland County v. Boyd*, 118 Pa. 52.

<sup>2</sup> The act does not authorize the punishment of imprisonment, but the sentence must be to compulsory labor. *Commonwealth v. Scott*, 25 Pa. C. C. R. 210.

months, and shall forthwith commit him to the custody of the steward, keeper or superintendent of such county farm, house of correction, poor-house, work-house or common jail, or to the supervisors or street commissioners and overseers of the poor of the respective county, city, borough or township wherein such person shall be found, as in his judgment shall be deemed most expedient; the said justice of the peace or committing magistrate, in every case of conviction, shall make up and sign a record of conviction, annexing thereto the names and records of the different witnesses examined before him, and shall by warrant, under [his] hand, commit such person as aforesaid; *Provided*, Any person or persons who shall conceive him, her or themselves aggrieved by any act, judgment or determination of any justice of the peace or alderman, in and concerning the execution of this act, may appeal to the present or next general quarter sessions of the city or county, giving reasonable notice thereof, whose orders thereupon shall be final.<sup>1</sup>

3. It shall be the duty of the custodian or custodians of any such vagrant, to make active efforts to provide work for every vagrant committed under this act, and not disqualified by sickness, old age [or] casualty; and whenever labor cannot be provided in the place to which any vagrant is committed, it shall be lawful for such custodian or custodians, and it is hereby declared to be his or their duty, with the approval of the board of directors, overseers, guardians or commissioners of the poor, as the case may be, to contract with the proper authorities of any such township, borough, city, county, or other persons, to do any work or labor outside the place of commitment; in all cases the work or labor shall be suited to the proper discipline, health and capacity of such vagrant, and he shall be fed and clothed in a manner suited to the nature of the work engaged in, and the condition of the season; and when any vagrant is committed under the provisions of this act to the custody of the supervisors or street commissioners, and [or] overseers of the poor of any township, borough, city or county, it shall be their duty to provide for him comfortable lodging or quarters, either in a station-house or other building. The violation or neglect of any of the provisions of this section shall be deemed to be a misdemeanor, and the person so offending, on conviction thereof in the proper court, shall be sentenced to undergo an imprisonment for a term not exceeding three months, and to pay a fine not exceeding one hundred dollars, either or both, in the discretion of the court.

<sup>1</sup> The court of quarter sessions has no jurisdiction to try vagrancy cases under this act except on appeal from a conviction by a justice of the peace. *Commonwealth v. Kehoe*, 1 Dist. R. 636.

May 1876.  
Record.  
Appeal.  
Id. § 3.  
Work to be provided for vagrants.  
Maintenance.

8 May 1876.  
§ 4.

Non-resident  
poor may be  
returned to  
their homes.

Expenses, how  
defrayed.

Id. § 5.

Discharge for  
good behavior.

Id. § 6.

County to pro-  
vide work-  
houses.

Id. § 7.

Fees of justices  
and constables.

4. If any person, not being in the county, township or place in which he usually lives or has his home, shall apply to any director, overseer, guardian or commissioner of the poor of any county, city, borough, township or district, stating that he is desirous to return to his home, but is poor and has not the means to do so, the said director, overseer, guardian or commissioner of [the poor] may employ or let out such poor person to labor, at some suitable place, to be by them selected, and at such wages as shall seem to them just, and when, in the opinion of said director, overseer, guardian or commissioner of the poor such poor person shall have earned a sufficient sum, said director, overseer, guardian or commissioner of the poor shall, with the money so earned, and with such additions thereto from the treasury of the county, city, borough, township or district as they may think reasonable, cause such person to be returned to his home, whether in this state or elsewhere; *Provided*, That the expense shall not exceed twenty dollars.

5. The custodian or custodians of such vagrant may, at discretion, discharge such vagrant at any time within the term of commitment, upon not less than ten days' good behavior, or upon satisfactory security that he shall not become a charge upon the public within one year from the date of such discharge.

6. The county commissioners of every county in which there shall not be sufficient provision for the safe custody of persons committed under this act, upon the recommendation of a grand jury of the county, and approval of the court, are hereby empowered and required to make suitable provisions by buildings or enclosures; *Provided*, That the expense of the same shall not exceed the amount fixed by the grand jury.<sup>1</sup>

7. For each arrest, hearing or commitment made under this act, there shall be paid out of the county treasury,<sup>2</sup> to the committing magistrate and the officer making such arrest or commitment, the sum of fifty cents each, and mileage as now provided by law, when such arrest is made more than one mile from the prison or place where such vagrant shall be committed, and no mileage shall be allowed to any officer making the arrest within one mile of the prison or place where such vagrant shall be committed.<sup>3</sup> And no person shall be detained beyond the term of his or her commitment, by reason of his or her inability to pay the costs of his or her

<sup>1</sup> See the Act of June 26, 1895, P. L. 877, authorizing the erection of work-houses in the several counties of the state.

<sup>2</sup> This provision is constitutional. *Hays v. Cumberland County*, 5 Super. Ct. R. 159. The county is also liable for the payment of the costs of arrest and commitment of drunk and disorderly persons

who are unable to pay the same. *Northampton County v. West*, 28 Pa. 173; *Fleck v. Dauphin County*, 1 Pears. R. 220. See, as to the liability of the city for maintenance of prisoners committed for violation of ordinances, the Act of March 28, 1906, P. L. 61; title "Fines and Penalties," p. 86.

<sup>3</sup> See *infra*, 10.



arrest, hearing and commitment, but shall forthwith be discharged by the officer in whose custody he may be. Any wilful refusal to make such arrest on the part of any constable or police officer, shall subject him to a penalty of five dollars, to be collected as penalties are collectible, and shall be paid into the poor fund of the district in which such officer resides, if such poor fund exists, and into the county treasury, where such poor fund does not exist.<sup>1</sup>

8. All poor-houses, almshouses and other places provided for the keeping of the poor, are hereby declared to be work-houses for the purposes of this act; and it is hereby made the duty of the custodians of such buildings to provide work for such vagrants, and to compel them to work therein, when able, not less than six hours per day.

9. The custodian of any vagrant, upon his discharge and at his request, shall give him a certificate of discharge, which shall exempt him from any further arrest for vagrancy for a period of five days, upon condition that he shall forthwith leave the county wherein confined; and the said custodian is hereby authorized to give, in his discretion, to such discharged vagrant, a reasonable sum of money out of his earnings, or out of the treasury of the township, borough, city or county, to defray his expenses in leaving the county as aforesaid.

10. From and after the passage of this act the fees of justices of the peace, magistrates and aldermen of this commonwealth for every act in or about the arrest and commitment of vagrants shall be one dollar for each vagrant arrested and committed, and in case of the arrest of a person or persons charged with vagrancy who, after hearing, shall be discharged by the justice of the peace, magistrate or alderman, the fees of the justice of the peace, magistrate or alderman shall be fifty cents.<sup>2</sup>

<sup>1</sup> The original section so amended by Act of May 3, 1878, P. L. 40.

<sup>2</sup> The fees of constables for arrest and commitment of vagrants are regulated by

the Act of Feb. 17, 1899, P. L. 3 (title "Constables," *ante*, p. 36). See *Swisher v. Franklin County*, 5 Dist. R. 209.

## Wards.

[See ANNEXATION OF TERRITORY.]

1. Division and creation of wards. Petition to court of quarter sessions. Commissioners to be appointed. Duties of commissioners. Report.

2. On favorable report, election to be ordered. Mayor to give notice of election. Tickets. Return of election. Upon majority vote, decree to be entered. Certificate to council. If majority against new ward, no further action to be taken. Limitation of number of wards and minimum of taxables.

3. Proceedings for annexation of part of one ward to another. Commissioners to be

appointed, on petition. Commissioners to examine premises and make draft. Report to court.

4. When vote of electors to be taken. How election to be conducted. Notice Tickets. Return of election. On affirmative vote, decree of separation to be entered. On negative vote, no further proceedings to be had.

5. Re-location of boundary lines of wards in certain cases. Petition to court and decree.

1. Wards in cities of the third class may be divided, or new wards created therein, by the court of quarter sessions of the proper county, on application thereto for that purpose by the petition of at least one hundred qualified electors

May 1876.

Penalty.

Id. § 8.

Poor-houses to be work-houses.

Id. § 9.

Certificates of discharge.

28 April 1899.

§ 1. P. L. 88.

Fees of justices and aldermen.

23 May 1880.

Art. II., § 1.

P. L. 27v.

Division and creation of wards.

23 May 1890.  
Art. II.

Petition to  
court of quar-  
ter sessions.

Commissioners  
to be ap-  
pointed.

Duties of com-  
missioners.

Report.

Id. § 2.

On favorable  
report, election  
to be ordered.

Mayor to give  
notice of  
election.

Tickets.

Return of  
election.

Upon majority  
vote, decree to  
be entered.

Certificate  
to councils.

thereof, or of the councils of such city; and upon such petition praying for the division of a ward, or for the erection of a new ward out of parts of two or more wards, the said court shall appoint five impartial men, residents of the city, but not of the wards to be affected thereby, as commissioners, to inquire into the propriety of granting the prayer thereof, and it shall be the duty of the commissioners so appointed, or any four of them, to examine the premises and to make a draft of the ward to be divided, showing the division thereof, or of the new ward proposed to be created, as the case may be, and they shall make report to the said court of quarter sessions at its next term,<sup>1</sup> together with their opinion of the same; and at the term after that at which the report shall be made, the court shall take such order thereupon as to them shall appear just and reasonable.

2. If the commissioners, or a majority of them, report favorably to such division or creation, the court shall order a vote of the qualified electors of the ward or wards to be affected thereby to be taken on the question of the division or creation thereof, and shall appoint an election, to be held on the day of [the] municipal or general election, when the election officers of the ward or wards proposed to be divided or affected thereby shall hold such election at the places and in the manner provided by law for the regulation of municipal elections. It shall be the duty of the mayor of such city to give at least fifteen days' public notice, by advertisement in at least three newspapers, if so many be printed in said city, or by handbills posted in the most public places in said ward or wards, that such an election will be held, and of the time and place of holding the same. The judges and inspectors of election of said ward or wards shall receive from the electors thereof written or printed tickets, having on the outside the words "new ward," and on the inside the words "for new ward," or "against new ward," and deposit the same in a box to be provided for that purpose. The officers of such election shall count the said tickets in the manner prescribed by law, and shall forthwith make out a return showing the number of votes for and against such new ward, and shall deliver the same to the clerk of the court of quarter sessions of the proper county within three days, and the said clerk shall record said return and forthwith lay it before the court. If it shall appear that a majority of the votes so taken are for a new ward, the said court shall thereupon order and decree the creation of such new ward or wards, agreeably to the lines marked out and returned by the commissioners, and shall number the new wards, and cause a certified copy of the whole proceedings to be placed of record among the minutes of councils. If a majority of votes have been against a new

<sup>1</sup> The provision requiring the report to be made to the next term of the court is

directory merely, not imperative. *Division of Fifteenth Ward*, 11 Phila. R. 406.

ward, no further action shall be had upon such proceedings, nor shall any new application for such new ward be heard for three years from the date of such election; *Provided*, That no ward shall contain less than three hundred taxable inhabitants according to the last preceding enumeration; and no city of the third class shall contain more than twenty-one wards.

23 May 1889.  
Art. II.

If majority against new ward, no further action to be taken. Limitation of number of wards and minimum of taxables.

3. On the petition of at least twenty-five electors resident within the district to be stricken off or attached, or of the councils of any city of the third class, to the court of quarter sessions of the proper county, praying for the detaching from one ward a part thereof and attaching the same to another ward, the said court shall appoint five impartial men, residents of the city but not of the ward to be affected thereby, as commissioners, to inquire into the propriety of granting the prayer thereof, and it shall be the duty of the commissioners thereof, or any four of them, to examine the premises, and to make a draft of the wards affected, and showing the lines as the division will affect them, and shall make report to said court at the next term, together with their opinion of the necessity for the same, and at the next term after that at which the report shall be made, the court shall take such action thereon as to them shall appear just and reasonable.

16 May 1891.  
§ 1. P. L. 64.

Proceedings for annexation of part of one ward to another.

Commissioners to be appointed, on petition.

Commissioners to examine premises and make draft.

Report to court.

4. If the commissioners, or a majority of them, report in favor of the petition, the court shall order a vote of the qualified electors of the ward from which the territory is to be stricken off to be taken on the question, and shall appoint an election, to be held on the day of the municipal or general election, when the election officers of the ward shall hold such election at the place and in the manner provided by law for the regulation of municipal elections. It shall be the duty of the mayor of such city to give at least fifteen days' public notice by advertisement in at least three newspapers, if so many be printed in said city, or by handbills posted in the most public places in said ward, that such an election will be held, and of the time and place of holding the same. The judges and inspectors of election in said wards shall receive from the electors thereof written or printed tickets having on the outside the word "division," and on the inside the words "for division," or "against division," and deposit the same in a box to be provided for that purpose. The officers of such election shall count the said tickets in the manner prescribed by law, and shall forthwith make out a return showing the number of votes for and against such separation, and shall deliver the same to the clerk of the court of quarter sessions of the proper county within three days, and the said clerk shall record said return and forthwith lay it before the court.

Id. § 2.

When vote of electors to be taken.

How election to be conducted.

Notice.

Tickets.

Return of election.

If it shall appear that a majority of the votes so taken are for the separation, the said court shall thereupon order and decree the separation from the one ward and the attachment to

On affirmative vote, decree of separation to be entered.

16 May 1891.

On negative  
vote, no fur-  
ther proceed-  
ings to be had.

the other ward, agreeably to the lines marked out and returned by the commissioners, and shall cause a certified copy of the whole proceedings to be placed on record among the minutes of councils. If a majority of votes have been against such separation, no further action shall be had upon such proceedings, nor shall any new application for such separation and addition be heard for three years from the date of such election.

9 July 1897.  
§ 1. P. L. 217.

Re-location of  
boundary lines  
of wards in  
certain cases.

Petition to  
court and  
decree.

5. In case of the division of any ward, or the creation of new wards, where any of the boundaries or divisions thereof is a creek or stream, or any other invisible line, and where any of said lines have become changed, obliterated, uncertain or undesirable by reason of the opening of streets, the construction of sewers, the development of the locality, or any other cause, then and in such case the court of quarter sessions is authorized and empowered, upon the filing of a petition signed by at least twelve electors, setting forth the above facts, together with a plan of the said ward or wards, to make such order or decree as to the relocation of the line as to them may appear proper, so that the same shall conform as near as possible to the boundary lines which may have been previously determined upon.

## Water and Lighting Department.

### I. ORGANIZATION AND POWERS.

1. Purchase of property of water, gas or electric light companies. Power to appropriate streams and lands. Right to enter upon lands and take materials. Compensation to owners. Authority to be conferred by electors at special election.

2. Water and lighting department to be created. Division of city into districts. Election of commissioners by councils.

3. How commissioners to be elected. Term of service.

4. Compensation of commissioners. Oath. Removals and supplying of vacancies.

5. Powers and duties of commissioners. Superintendent and clerk. Purchase of materials and construction of works.

6. Estimates of cost of improvements to be submitted to councils. Consent of councils to improvements.

7. Extension of pipes. Owners to be charged such rates per foot as councils may direct. City may assume cost of extensions.

8. Frontage water tax and lighting tax. How collected. Allowance for corner lots. Limit of allowance. Properties using private water or gas supply to be exempt from frontage tax.

9. Board to fix water and lighting rates,

with approval of councils. Rates to be fixed annually.

10. Collection of lighting and water rates. Delinquent claims to be registered in city lien-docket.

11. Commissioners to submit annual statement to councils. City treasurer to keep separate account of revenues from departments of water and lighting. Application of revenue.

12. Councils to pass necessary ordinances and regulations. Penalties for violation of same, how recoverable.

### II. APPROPRIATION OF STREAMS, LANDS, ETC., FOR WATER SUPPLY.

13. Cities and boroughs authorized to appropriate streams, lands, etc., for water supply.

14. Agreement as to damages. Upon failure to agree, bond to be filed in common pleas. Condition of bond. Upon approval of bond, right of entry to be complete. Viewers to be appointed, on petition. Meeting of viewers. Appeal from report of viewers.

15. Cities authorized to patrol drainage area of water supply. Compensation for injury.

### I. Organization and Powers.

23 May 1889.

Art. XII.,  
§ 1. P. L. 306.

Purchase of  
property of  
water, gas or  
electric light  
companies.

1. The councils of any city of the third class are hereby authorized and empowered to purchase, for such price as may be agreed upon by the councils of the city and a majority of the stockholders of the company, all the real, personal and mixed estate of any water, gas or electric light company or companies in such city, or adjacent thereto, and thereupon the said city shall possess and exercise all the rights, powers,

privileges and franchises by law belonging or pertaining to such company or companies, and may take and appropriate any stream or streams of water, spring or springs, lands, tenements, hereditaments, property and materials, near or accessible to such city, which may be necessary for the erection and maintenance of water, gas or electric light works, and for the supplying of said city with water or light, and may enter into and upon any lands, inclosures, streets or highways to procure materials for the construction of said works, doing as little damage as possible to property, and making compensation to the owner or owners of all species of property taken, appropriated or injured by them for the purposes aforesaid, as herein provided; but the powers granted by this section shall not be exercised by councils until authority so to do shall have been given them by a majority of the voters of such city, at a special election held for that purpose, of which election the mayor shall give notice as provided for municipal elections.

23 May 1889.  
Art. XII.

Power to appropriate streams and lands.

Right to enter upon lands and take materials.

Compensation to owners.

Authority to be conferred by electors at special election.

2. Any city which now has the title to any water, gas or electric light works, by conveyance to the same in its corporate name,<sup>1</sup> or which may hereafter erect or purchase water, gas, or electric light works under the provisions of this act, are [is] hereby empowered to create a department to be called the water and lighting department; and for the organization and government of the same the councils are hereby authorized and empowered to divide the city into three districts for the election of a board of commissioners, which districts shall be numbered one, two and three; one commissioner to be chosen from each respective district, of which he shall be a resident at the time of his election, and no member of councils or person holding any city office shall be eligible as a member of said board.

Id. § 2.

Water and lighting department to be created.

Division of city into districts.

Election of commissioners by councils.

3. The councils of such city creating such department as aforesaid, may, on the second Monday of April, or within thirty days thereafter, in joint convention, elect one person from each of said districts as a member of the board of commissioners of the water and lighting department; and at the first election each member of councils shall vote for but two commissioners, and the three persons, being one from each of said districts, having the highest number of votes shall be declared elected. The commissioners so elected shall serve for the term of one, two and three years, respectively, to be computed from the date of election, and until their successors are duly elected and qualified. The term of each shall be de-

Id. § 3.

How commissioners to be elected.

Term of service.

<sup>1</sup>The application of this article to cities already having the title to water works differs from that of the Municipal Act of May 23, 1874, which related only to cities prospectively erecting or purchasing water works under its provisions. The provisions of the above section are permissive and not mandatory. *Roddy*

*v. Reynolds*, 31 O. C. R. 145. As to whether the general provisions of the Act of 1889 operate to repeal prior local acts creating a city water department, see *Grubb v. Weaver*, 19 Pa. C. C. R. 609, and authorities there cited; also *Graeff v. Felix*, 200 Pa. 137.

23 May 1889.  
Art. XII.

Id. § 4.

Compensation  
of commis-  
sioners.

Oath.

Removals and  
supplying of  
vacancies.

Id. § 5.

Powers and  
duties of com-  
missioners. Su-  
perintendent  
and clerk.

Purchase of  
materials and  
construction  
of works.

Id. § 6.

Estimates of  
cost of im-  
provements to  
be submitted  
to councils.

Consent of  
councils to im-  
provements.

Id. § 7.

Extension  
of pipes.

terminated by lot at the first meeting of the board, and there-  
after on the second Monday of April of each year, or within  
thirty days thereafter, the councils shall, in joint convention,  
elect one commissioner to serve for the term of three years.

4. The members of the board of commissioners created as  
aforesaid shall receive such compensation for their services  
as may be provided by ordinance.<sup>1</sup> Before entering upon  
their respective duties they shall take and subscribe the oath  
herein prescribed for city officers,<sup>2</sup> and they shall be remov-  
able by councils for misdemeanor in office or neglect of duty;  
and all vacancies occurring in the board shall be filled by  
councils for the unexpired term.<sup>3</sup>

5. It shall be the duty of the board to take charge of the  
water and lighting department so created as aforesaid, and  
by their sole authority to employ and dismiss at pleasure a  
superintendent, and a clerk who shall be secretary of the  
board, whose compensation shall be fixed by councils, and to  
employ such laborers, mechanics and workmen as they may  
deem necessary for the economical and efficient administra-  
tion of said department. They shall purchase such materials  
and supplies as may be required for keeping the works in  
good repair, and have charge and control of all constructions,  
repairs, enlargements and extensions of the works, and shall  
conduct and manage the affairs and business of the depart-  
ment in accordance with law and the directions of the city  
councils.<sup>4</sup>

6. The said board of commissioners so created shall, when-  
ever called upon by councils, make and submit to them full  
estimates of the cost, charges and expenses of any new work,  
enlargement, extension of water or lighting supply, or altera-  
tion which councils may contemplate making relative to said  
works; and said board may, at any time, submit to councils  
any suggestions and estimates they may see proper to make  
touching the improvement, extension or enlargement of said  
works; but no new construction, reconstruction, extension,  
supply of water or light, or enlargement of said works shall  
be undertaken by said commissioners so created, or materials  
or supplies be purchased therefor, without the previous con-  
sent and direction of councils.

7. Whenever an extension of a supply of water or light to  
portions of the city not previously supplied shall be made by  
the said commissioners so created, they shall make out a full  
statement of the number of feet of main pipes laid or ex-

<sup>1</sup> As to the liability of a city to pay the expenses for meals furnished to a board of water commissioners on the occasion of an annual inspection of the water supply, see *Behm v. Reading*, 21 Pa. C. C. R. 545.

<sup>2</sup> The oath prescribed by the constitution; see title "Public Officers," II *ante*, p. 173.

<sup>3</sup> The Act of May 23, 1874, provided that vacancies should be filled by the re-

maining members of the board, preserving the minority feature.

<sup>4</sup> As to power of a board of water commissioners to make contracts by parol for improvements, see *Dunlap v. Erie Water Commissioners*, 151 Pa. 477. The water department of a municipality which is given the right to acquire land for purposes of a water supply has no power to acquire it for purposes of a public park. *Graeff v. Felsa*, 200 Pa. 137.

tended through any of the streets of the city in which main pipes were not laid before the said extension, and shall file the same in the department; and it shall be the duty of the clerk of said department, forthwith, on receipt of said statement, to make out a list of all the owners of houses, lots and buildings on each side of the streets through which said pipes are extended, and to charge said owners, and each of them, for each and every house, lot or building so situated in said streets, at such rate per foot<sup>1</sup> as the city councils may by ordinance fix, for said mains extending along the front of their respective houses, lots and buildings; *Provided*, That nothing herein contained shall be construed to prevent the councils from providing for the payment of water and gas pipes by the city.

23 May 1890.  
Art. XII.

Owners to be charged such rates per foot as councils may direct.

City may assume cost of extensions.

8. Said charge shall be called the frontage water tax, or lighting tax, as the case may be, and shall be collected and recovered in the manner provided by this act for the recovery of municipal claims. And whenever any pipes for the conveyance of water or light shall be laid in any of the streets or highways within such city, the owners of the ground in front of which the same shall be laid shall pay for the expense thereof such sum for each foot of the front of their ground upon such street as the city councils may by ordinance direct; *Provided*, That in all corner lots an allowance shall be made of one-third the length of their front, but such allowance shall be always and only on the street or highway having the longest front, and in case both fronts are of equal dimensions the allowance shall be made in the street in which the pipes shall be last laid, but in no case shall the allowance exceed sixty feet on any corner lot; *And provided further*, That when a corner lot shall have erected upon it two or more separate tenements, there shall only be an allowance made equal to one-third of the depth of the corner tenement and the yard adjoining; *And provided also*, That the provisions of this and the foregoing section shall not apply to any lot or piece of ground in such city upon which there may be a supply of water or gas obtained from any other source whatever; but if at any time the owner of such lot or piece of ground shall desire to obtain a supply of water or gas from the works of such city, then and in that case the provisions of this section shall first be complied with.<sup>2</sup>

Id. § 8.

Frontage water tax and lighting tax. How collected.

Allowance for corner lots.

Limit of allowance.

Properties using private water or gas supply to be exempt from frontage tax.

<sup>1</sup> The city is not restricted in its claim to the actual cost of the pipe. *Swain v. Philadelphia*, 22 W. N. C. 120; see, also, *Lea v. Philadelphia*, 2 Id. 254.

<sup>2</sup> A municipal corporation has no power to charge rural lands with an assessment for water pipe upon the frontage rule. It is immaterial that the lands are enhanced in value by the laying of the pipe to the extent of the assessment. *Philadelphia v. Wetherill*, 13 W. N. C. 10. No lien can be acquired for laying water pipe in a private street. *Philadelphia v. Baird*,

1 W. N. C. 126. Nor for a sewer. *McClintock v. Allegheny*, 33 Leg. Int. 410. The granting of a permit to connect houses erected on a private street with the public water main is discretionary with the water department, and may be prohibited unless a frontage assessment is paid for water pipe to be afterwards laid when the street is dedicated to public use. *Boswell v. Philadelphia*, 15 W. N. C. 169. As to what constitutes involuntary payment of claim for laying water pipe, see *Lawrence v. Philadelphia*, 14 Id. 421.

23 May 1889.  
Art. XII.  
§ 9.

Board to fix  
water and  
lighting rates  
with approval  
of councils.

Rates to be  
fixed annually.

Id. § 10.

Collection of  
lighting and  
water rates.

Delinquent  
claims to be  
registered in  
city lien  
docket.

Id. § 11.

Commissioners  
to submit an-  
nual statement  
to councils.

City treasurer  
to keep sepa-  
rate account of  
revenues from  
departments  
of water and  
lighting.

Application  
of revenue.

9. The said commissioners so created shall have power, by and with the approval of councils, to fix the water and lighting rates, and the quantity to be used, and for that purpose they shall, on the first Monday of March in each year, establish the rates for the succeeding year, which rates shall be submitted by them to councils for their approval, and, when approved, such rates shall not be changed for and during the year, but if not approved, the existing rates shall continue until modified by the commissioners, with the approval of councils.

10. The city councils shall provide by ordinance for the collection of all the lighting and water rates that may accrue from time to time to the said city for the use of the water or light, fixing the time when such rates shall be payable, and the penalties for non-payment thereof;<sup>1</sup> and such rates shall be charged to the respective owners of the real estate on which such water or light is used, and if the same shall not be paid in accordance with the provisions of such ordinance, claims for the amounts due shall be registered in the city lien-docket in the same manner as is herein provided in the case of unpaid city taxes on real estate, with the like force and effect as to the lien thereof.

11. The said commissioners created as aforesaid shall, annually, at a stated meeting of councils in the month of January, report to said councils a full statement of all the repairs, alterations, reconstructions, new constructions, expenditures, and everything relating to the management and cost to the city of maintaining the said works. The treasurer of the city shall keep his accounts in such manner as to show in his monthly report, distinctly and separately, the entire amount of revenue realized during each month from the water and lighting departments of said city respectively; and the revenues derived from the said water and lighting departments shall be applied exclusively to the purposes of said departments respectively, and the surplus, if any, to the reduction of the debt thereof; *Provided*, Any surplus revenues

<sup>1</sup> Where by ordinance it was provided that the ferrules of delinquents should be detached after a certain date for non-payment of water rent, held that the neglect of the city authorities to cut off the water at that date did not prejudice the right to collect all arrearages from the purchaser of the premises at sheriff's sale before it was turned on again. *Girard Life Insurance Co. v. Philadelphia*, 88 Pa. 393. The fact that a lien is given by the Act of 1889 for unpaid water rents does not render an ordinance invalid which provides for shutting off the water for non-payment of water rent. *Altoona v. Shellenberger*, 6 Dist. R. 544. Where two adjoining dwellings are constructed with but one hydrant between them, which the tenants of each are compelled to use, knowledge of the unauthorized use of water by one of the tenants need not

be brought home to the owner in order to render him liable for water rent for both. *Harrisburg's Appeal*, 107 Pa. 102. The water department cannot be enjoined from the collection of alleged unlawful assessments of water rent; there is an adequate remedy at law. *Kershaw v. Philadelphia*, 15 W. N. C. 415. Water rents are not collectible by the ordinary method of collection of taxes. *Dixon v. Entriaken*, 6 Dist. R. 447. Liens must be filed for unpaid water rents if they are to be paid out of the proceeds of a judicial sale. *Grubb v. Weaver*, 19 Pa. C. R. 609. Certain classes of consumers may be charged according to fixed rates and others according to the quantity consumed, as ascertained by measurement. *Rieker v. Lancaster City*, 7 Super. Ct. R. 148.



from said water and lighting departments, after the payment<sup>23</sup> of all the debts of said respective departments, shall be applied as follows: The surplus from the water revenues, to the reduction of the bonded indebtedness which has been created by the city for the erection and construction of its water works; and the surplus from the lighting revenues, to the reduction of any bonded indebtedness which has been created by the city for the erection and construction of its lighting plant.<sup>1</sup>

12. The city councils shall pass such ordinances, rules and regulations as may be necessary for carrying into effect the provisions of this article, not inconsistent with this act, and may impose fines and penalties for the violation of such ordinances, rules and regulations, recoverable in the manner hereinbefore provided for the recovery of fines and penalties for the violation of other city ordinances, and subject to the like limitation as to the amount thereof.

Id. § 12.

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## II. Appropriation of Streams, Lands, etc., for Water Supply.

13. Any city or borough desiring to erect water works, or to improve its water supply, may for such purpose appropriate streams known as rivers or creeks, lands, easements and rights of way, whether within its territorial limits or not, and, for the purpose of conducting water obtained outside of the territorial limits of any city or borough, may lay pipes across, under and over any lands, rivers, streams, bridges, public highways, and cross railroads.

25 May 1887.  
§ 1. P. L. 267.

Cities and boroughs authorized to appropriate streams, lands, etc., for water supply.

14. Prior to any appropriation, the city or borough shall attempt to agree with the owner as to the damage done, or likely to be done, to him; if the parties cannot agree, or the owner cannot be found, or is not sui juris, the said city or borough may file its bond in the common pleas court of the county, conditioned for the payment to the owner or owners of the property appropriated, of the damages for the taking thereof when the same shall have been ascertained according to law; upon the approval of the bond and its being filed, the right of the corporation to enter upon the property or rights intended to be appropriated shall be complete. Upon petition of either the property owner or the city or borough at any time thereafter, the said court shall appoint five disinterested freeholders of the county to serve as viewers, to assess the damages proper to be paid to the owner for the property or rights appropriated, and shall fix a time for their meeting, of which notice shall be given to both parties. When the report is filed, either party may appeal and have a jury trial, as provided by law.<sup>3</sup>

Id. § 2.

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<sup>1</sup> The section amended as above by Act of May 16, 1901, § 28, P. L. 245.

<sup>2</sup> See the Act of June 24, 1895, P. L. 244, prohibiting burials upon lands forming the drainage area of a city water supply, except beyond the distance of one mile from the city limits.

<sup>3</sup> As to the construction of this act with reference to a local law relating to the establishment of a city water works, see *Shroder v. Lancaster*, 170 Pa. 136.

2 May 1905.  
§ 1. P. L. 850.

Cities authorized to patrol drainage area of water supply.

Compensation for injury.

15. Any city owning and operating a water works system is hereby authorized and empowered to enter, by any of its employes, upon private lands through which may pass any stream or streams of water supplying such city, for the purpose of patrolling the drainage area of such stream or streams, and making investigations or inquiries pertaining to the condition of the stream or streams, sanitary or otherwise; *Provided, however,* That any injury or damage done to the property so entered upon shall be paid by such city.<sup>1</sup>

<sup>1</sup> The Act of April 22, 1905, P. L. 260, "to preserve the purity of the waters of the state for the protection of the public health," provides for/strict state supervision of municipal and corporate water and sewage systems, and prohibits the discharge of sewage into public waters.

Exhibition of plans and surveys of the sources of local water supply is required to be made to the state department of health. Appeals from the orders of the department lie to the court of common pleas.

## Weights and Measures.

1. Penalty for selling by short weight or measure.

2. Penalty for using false scales, weights and measures.

11 April 1850.  
§ 8. P. L. 452.

Penalty for selling by short weight or measure.

1. Whenever any description of manufactured goods, commonly called dry goods or groceries, shall be sold by the piece, in packages, or by weight, and the said pieces or packages shall be marked or represented to contain a certain number of yards, pounds or ounces, and the same shall be sold as containing that number or weight, when in fact the said pieces or packages shall contain a less number of yards, or pounds or ounces than so represented, the seller or manufacturer thereof shall forfeit and pay to the purchaser a sum equal to double the value of the quantity or weight found to be deficient, to be recovered by action of debt in any court of law, or before any alderman or justice of the peace in this commonwealth, in the same manner that debts of like amount are now by law recoverable.

5 June 1883.  
§ 1. P. L. 78.

Penalty for using false scales, weights and measures.

2. Any person or persons who shall wilfully use and sell by false beams, scales, weights and measures, any article, merchandise, commodity or thing, shall be guilty of a misdemeanor, and on being convicted thereof, shall be sentenced to pay a fine not exceeding two hundred dollars, and to undergo an imprisonment not exceeding three months, or both, or either, at the discretion of the court.<sup>1</sup>

<sup>1</sup> The office of county sealer of weights and measures was abolished by the Act of March 8, 1883, P. L. 6. The standard of all weights and measures is fixed by state law, but the matter of inspection in all

the cities of the commonwealth, except those of the first and second classes (Act June 26, 1896, P. L. 386), appears now to be left entirely to municipal regulation.

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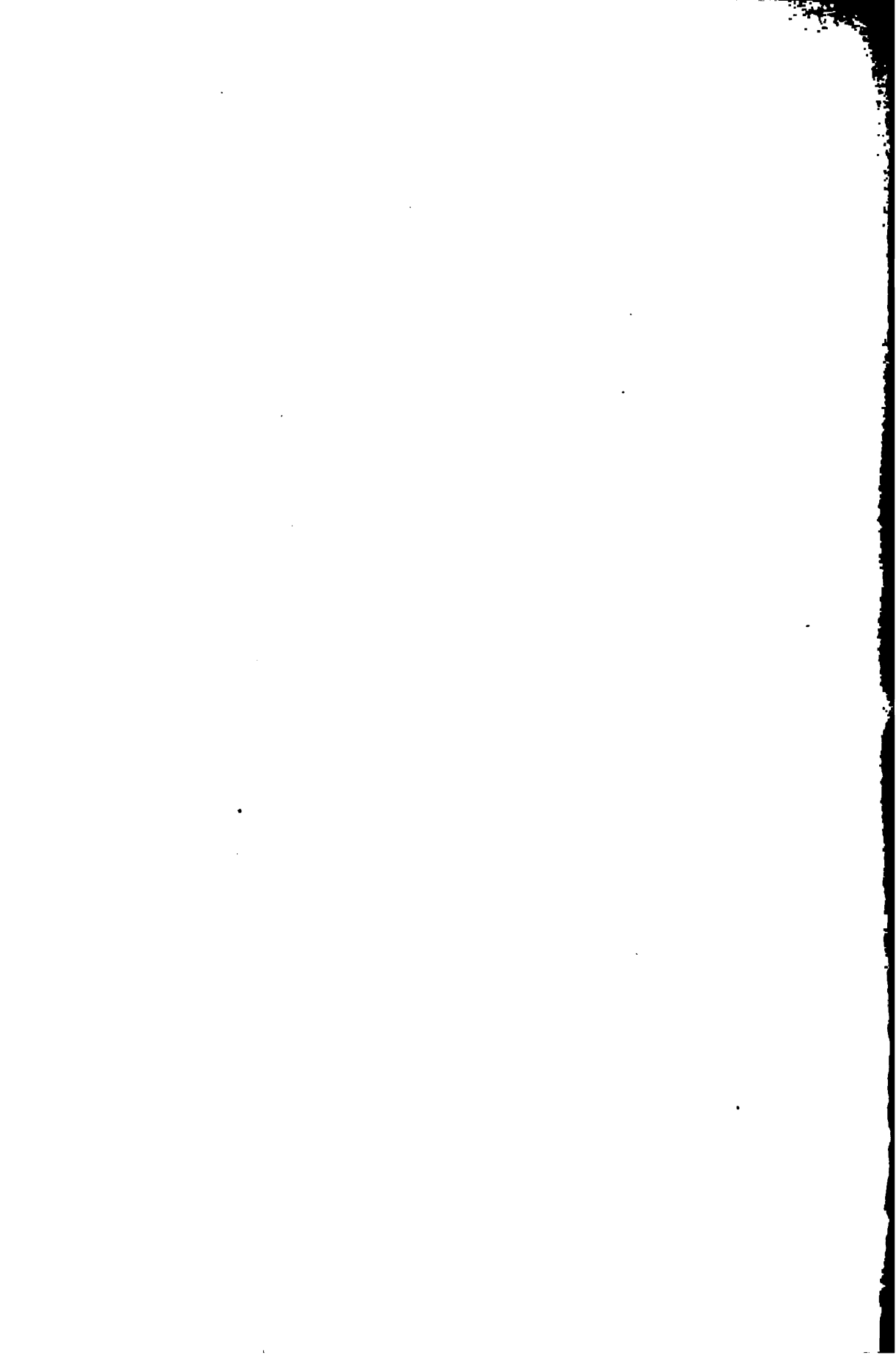
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## PART II.



**DIGEST OF THE ORDINANCES**  
**OF THE**  
**CITY OF HARRISBURG**  
**AND SPECIAL ACTS OF ASSEMBLY**  
**RELATING THERETO.**

**COMPILED BY**

**JAMES M. LAMBERTON, ESQUIRE.**

(317)



## NOTE.

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Attention is called to "A List of Special Acts of Assembly Relating to Harrisburg, Pennsylvania," compiled by the editor of this Digest of Ordinances, and published by joint resolution of Councils, approved March 6, 1906.

The Ordinances of the City of Harrisburg are contained in 8 volumes, viz.: 1, 2, 3, 4, A, B, C and D.

Since 1889, the principal Ordinances, and since 1891 all the Ordinances that have become laws, have been printed in the Annual Reports of the City for the Municipal Year.

B. O. stands for Borough Ordinance Book.

P. L. stands for Pamphlet Laws.

Res. stands for Concurrent Resolution.



DIGEST OF THE ORDINANCES  
OF THE  
CITY OF HARRISBURG  
AND SPECIAL ACTS OF ASSEMBLY  
RELATING THERETO.

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[See STREETS.]

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1. That if any person or persons shall suffer his, her or their hog or hogs, horse or horses, mule or mules, sheep or goats to go at large within the said city, each person or persons, on being duly convicted thereof before the mayor or any alderman of said city, shall forfeit and pay the sum of two dollars for every such hog, horse, mule, sheep or goat found running at large. 22 Nov., 1862. 1, 71, §1.

**Animals at large to be taken up and sold by chief police constable.**

2. That it shall be the duty of the chief police constable to take up and confine in some suitable pen or inclosure, every hog, horse, mule, sheep or goat found going at large in the said city; and

within twenty-four hours after so doing to cause notice to be given by one insertion in one or more of the papers of the City of Harrisburg, stating when and where the said hog or hogs, horse or horses, mule or mules, sheep or goats were taken up; and, unless an owner applies to said constable for such hog or hogs, horse or horses, mule or mules, sheep or goats, within three days afterwards, and tenders the fees and expenses hereinafter mentioned, then the said constable, at the next market day succeeding the said three days, shall sell the same at the market house, and the proceeds shall be paid to the city treasurer, after deducting for the use of said constable fifty cents for taking and confining each hog, horse, mule, sheep or goat, twenty cents a day for the keeping of each one, and fifty cents for the selling of each. Id., §2.

**Owner may redeem.**

3. That where the owner of any hog or hogs, horse or horses, mule or mules, sheep or goats, confined as aforesaid, shall make application for the same to the chief police constable within the said three days, the same shall be immediately delivered up, on the owner's paying to the said constable the fees and expenses before mentioned, for taking up and keeping such hog or hogs, horse or horses, mule or mules, sheep or goats; whereupon it shall be the duty of the said constable to make immediate complaint to the mayor or any alderman of said city of the offense committed by such owner, in having suffered the said hog or hogs, horse or horses, mule or mules, sheep or goats to go at large within the said city. Id., §3.

**Animals at large may be taken up by any one; Reward.**

4. That it shall be lawful for any person, and the special duty of the supervisors or street commissioner, to take up any hog or hogs, horse or horses, mule or mules, sheep or goats found going at large within the said city, and deliver the same to the chief police constable, who shall thereupon confine the same, and proceed as directed in the second and third sections of this ordinance; and in such case the person who shall have taken up and delivered such hog or hogs, horse or horses, mule or mules, sheep or goats, to the said constable, shall be entitled to receive the fifty cents before mentioned, for each hog, horse, mule, sheep or goat so taken up. Id., §4.

**Penalty.**

5. That the chief police constable, for the neglect of any duty enjoined upon him by this ordinance, shall, on being duly convicted thereof, forfeit and pay the sum of five dollars. Id., §5.

**Geese.**

6. That an ordinance to prevent swine, horses, mules, sheep or goats from going at large within the City of Harrisburg, passed November 22, 1862, is hereby enlarged and extended so as to include in its provisions cows and other "horned cattle," and also geese, and all the provisions of said ordinance shall hereafter apply in every particular to cows and other "horned cattle," and also



geese, as fully as the same applies to swine, horses, mules, sheep or goats. 16 Oct., 1877. 2, 67, §1.

**Dogs at large to have collars and tags; Bitch in heat.**

7. That it shall not be lawful for the owner of any dog or bitch to suffer the same to go at large in the City of Harrisburg, except under the following regulations, viz.: Every dog or bitch shall have securely fastened around its neck a collar of metal or leather with a metal plate, on which shall be inscribed the name and place of residence of the owner of such dog or bitch, and to which collar shall be attached the metal tag hereinafter required, and shall be attended by either the owner, or some person in charge of the same; but nothing herein contained shall be construed to permit any bitch when in heat to run at large in the City of Harrisburg, but such bitch going at large shall be taken up and destroyed in the manner hereinafter provided. 7 Nov., 1904. D, 154, §1.

**Dog tax; Registration; Counterfeiting tags.**

8. Every person owning or harboring any dog or bitch shall, on or before the first day of July in each year, have the same registered at the office of the city clerk, and pay a tax of one dollar and fifty cents (\$1.50) for each male or spayed female dog or whelp, and two dollars (\$2) for each bitch, for which the clerk shall give a receipt and a certificate of registration bearing the signature of the city clerk and the seal of the city, and containing a brief description of the animal so registered, the name and place of residence of person or persons owning or harboring the same, and shall furnish a metal tag having stamped thereon the number of the year for which the license is issued, and any person counterfeiting the aforesaid tags, or placing any except the authorized tag upon the collar of a dog, shall be subject to a fine of not more than twenty-five dollars (\$25) and cost of prosecution, and in default of the payment thereof be confined in the jail of Dauphin county for a period not exceeding thirty (30) days. Any dog or bitch so registered shall be permitted to run at large within the corporate limits of the City of Harrisburg. 6 March, 1906. D, 502, §1.

**Pound; Pound master; Dog tax fund; Redemption; Fees.**

9. The mayor is hereby authorized to procure and establish a place, properly equipped, within one of the outlying wards of the city, for the purpose of impounding all dogs or bitches found running at large in contravention of this ordinance, wherein shall be confined such dog or bitch for a period of forty-eight hours after capture thereof, after which time such dog or bitch shall be killed by asphyxiation, and the carcasses thereof shall be sold or buried. He shall also employ one person to act in the capacity of pound master, who shall have charge of the pound, and whose duty it shall be to receive and destroy all the animals as hereinbefore provided, if they shall not be redeemed, and bury or sell their carcasses. In case any dog or bitch is not redeemed as hereinafter provided, he may sell the same before destroying it, provided however, that the purchaser shall comply with the requirements of

registration as hereinbefore ordained. The mayor shall also detail as many officers as he may deem necessary to carry this ordinance into effect by employing suitable persons to take up, and deliver to the pound master all dogs and bitches found running at large within the corporate limits of the city; and for the services to be performed in taking up, killing and burying each dog or bitch, the sum of one dollar and fifty cents (\$1.50) shall be paid out of the revenues derived from the registration and sale of dogs as hereinafter provided; fifty cents (\$.50) of which amount shall be paid to the pound master for his services, and the remainder to the officer taking up the animal. All the revenues derived from the sale of unredeemed dogs, and of carcasses, shall revert to the dog tax fund. But in case of demand on the part of the owner within forty-eight hours of the time of capture of any dog or bitch, the same may be redeemed on the payment of a fine of two dollars (\$2), in addition to the maximum fee for registration. 7 Nov., 1904. D, 154, §3.

**Penalty for obstructing officer.**

10. Any person who shall obstruct the officers, or other persons to be appointed as aforesaid, in carrying out the provisions of this ordinance, or who shall willfully or maliciously obstruct or molest the persons employed in the seizure or transportation of the dogs or bitches by them captured, or in the burial of their carcasses, shall be liable to forfeit and pay the sum of one hundred dollars (\$100) for every such offense, to be sued for and recovered with costs before the mayor or any alderman of the city, one-half thereof for the use of the person bringing suit, and the other half for the use of the city, and in default of the payment of said fine be imprisoned in the jail of Dauphin county for a period not exceeding thirty days. Id., §4.

**Dog without collar and tag unregistered; Vicious dogs to be killed; Penalty.**

11. Every dog and bitch not wearing the aforesaid collar and tag is hereby declared to be unregistered; and any dog or bitch that has bitten any person shall be adjudged to be vicious, whether the fee of registration required by this ordinance shall have been paid or not; and any such dog or bitch that has bitten any person shall, on demand of any police officer, be securely tied up, and the owner thereof shall cause the same to be put to death in the presence of such police officer within twenty-four hours after such demand shall be made. In case any person owning or harboring such vicious dog or bitch shall refuse to permit the same to be put to death, he or she shall, upon conviction thereof before the mayor or any alderman of the city, be fined in the sum of five dollars (\$5) for each and every day he or she shall harbor such dog or bitch after such demand shall have been made by any police officer as aforesaid, and in default of the payment thereof shall be imprisoned in the jail of Dauphin county for a period not exceeding thirty days. Id., §5.

## Appeals.

### Appeal from alderman's judgment regulated.

1. That in all cases in which judgments shall be rendered by an alderman in the City of Harrisburg, or justice of the peace in the county of Dauphin, no appeal shall be allowed unless the appellant, his agent or attorney, shall make oath or affirmation, to be filed in the cause, that he has reason to believe that injustice has been done him, and that the same is not intended for delay merely, and pay all the costs accrued before the said alderman or justice of the peace, unless appellant make oath that he or she is unable to pay said costs. 23 Feb., 1870. P. L. 221, §1.

## Arrest.

[See PROFESSIONAL THIEVES, BURGLARS, &C.]

## Assessors.

[See TAXATION.]

Compensation, 2.  
Compensation of assistants, 2.  
Duties, 1.

Duty of county commissioners, 1.  
Election, 1.

**Assessors, election and duties of; County commissioners, duty of; Assessors to meet and equalize taxation; Repeal.**

1. That the qualified voters of the City of Harrisburg shall, on the second Friday in April, in the year one thousand eight hundred and sixty, and on the third Friday in March, in each and every year thereafter, elect one person for assessor in each ward in said city, who shall have and possess the qualifications of a member of the senate; which several assessors, after their election, being duly qualified, shall do and perform, within their respective wards, all the duties that by the usages and laws of this commonwealth are now enjoined upon assessors and assistant assessors. After said election the county commissioners shall make out their precepts, and forward the same to the several assessors, as in other cases; that after the several assessors shall have taken an estimate of the real and personal estate of the inhabitants of the said city, they shall meet together and equalize their valuation, according to the best of their judgment, and after said valuation is finally settled, the city council shall levy and assess their city tax, according to or upon the valuation made by the city assessors, for county rates and levies; the assessors elected by the city, under this charter, shall be governed and regulated by the act of assembly of one thousand eight hundred and thirty-five, regulating township officers; there shall be no assistant assessors elected in the said city; so much of the aforesaid act as authorizes the election of assistant

## 326 AUDITORIUMS (PUBLIC)—AWNINGS AND SIGNS.

assessors is hereby repealed, so far as the same may apply to the City of Harrisburg. 19 March, 1860. P. L. 175, §24.

### **Compensation; Compensation of assistants.**

2. That in conforming to the statute of one thousand eight hundred and eighty-seven relating to cities of this commonwealth, and the class to which this city belongs by article nineteen, section two, relating to the per diem compensation of members of the board of assessors, and such assistance as shall be required for said service, that the same shall be fixed upon by councils; Now, therefore, be it ordained that the compensation per diem of the board of assessors shall be four dollars (\$4) for each and every day of actual service of duties performed, and no extra compensation whatever, and in like manner the assistants shall receive two dollars and fifty cents (\$2.50) for services within the limits of the law (i. e., sixty days). All service to be rendered and sworn to according to law. 30 April, 1888. B, 2, 264, §1.

## **Auditoriums (Public).**

[See BOARD OF HEALTH, Rule 44—BUILDINGS, 42, 51.]

Aisles, seats in, prohibited, 1.  
Number to be admitted, 1.

Penalty, 2.

### **Aisles; Number admitted.**

1. That hereafter there shall not be admitted into the public auditoriums of any theaters, public halls, or churches, in the City of Harrisburg, more people than can be comfortably seated in the seats that have been permanently provided for the accommodation of the public; and the placing of stools, chairs, or any other temporary seats in the aisles or passage-ways of such public auditorium is strictly prohibited. 15 March, 1904. D, 58, §1.

### **Penalty.**

2. Any person violating any of the provisions of this ordinance and convicted thereof before the mayor or any alderman of the city, shall pay a fine of not less than \$5.00 and not more than \$50.00 and costs of prosecution for each and every offense, and in default of the payment thereof shall be imprisoned in the jail of Dauphin county for a period not exceeding thirty days. Id., §2.

## **Awnings and Signs.**

[See BUILDINGS.]

Harrisburg Market Company authorized to erect iron awning, 4.  
Height regulated, 2.  
Iron awnings may be erected, 2.  
Payment for permit to city treasury, 2.

Penalty, 1.  
Repeal, 3.  
Spouting to be placed on all corners of streets and alleys, 2.  
Wooden awnings and signs regulated, 1.

**Wooden awning or sign.**

1. That it shall not be lawful for any person or persons to erect any wooden awning or sign across the pavement or foot-way of any of the streets within the city, under the penalty of ten dollars, to be recovered for the use of the city, as other fines are by law recoverable. 13 March, 1861. 1, 26, §16.

**Payment for permit; Height regulated; Spouting.**

2. That hereafter any person or persons desiring to erect an iron awning, or an awning partly of iron and partly of wood, shall be permitted to do so; *Provided*, They first pay into the city treasury the sum of twenty-five cents per lineal foot front for the privilege of so doing; *And provided further*, That no awning shall be erected less than ten feet high at the curb, and that all awnings now erected or which may hereafter be erected, the parties owning the same are hereby directed to have spoutings placed on all corners of streets and alleys. 7 June, 1875. 2, 28, §1.

**Repeal.**

3. That all ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. *Id.*, §2.

**Harrisburg Market Company.**

4. That the Harrisburg Market Company are hereby authorized to erect and maintain an awning with metallic roof over the pavement, in front of their market house, in Market Square; *Provided*, They pay the sum of twenty dollars for the purpose of paying the expense of publishing this ordinance. 6 Jan., 1873. 1, 596, §1.

## Bicycles.

Bell or gong, to be provided, 2.  
Children not to be carried in baby  
seats, 5.  
Light at night, to be provided, 2.  
Penalty for violating ordinance, 3.

Penalty for carrying children, &c., 6.  
Police to enforce regulations, 4.  
Speed not to exceed eight miles an  
hour, 1.

**Speed.**

1. That no rider of any bicycle, tricycle or velocipede shall ride or propel the same over any of the streets or highways of the City of Harrisburg at a greater rate of speed than eight miles an hour. 27 Dec., 1893. A, 436, §1.

**Light at night; Bell or gong.**

2. That no bicycle shall be used on the streets or highways of the city unless the same is provided with a lighted lantern by night, a bell or gong capable of producing a sufficiently loud alarm or warning to others using the highways. 6 July, 1899. B, 514, §1.

**Penalty.**

3. Any person violating any of the provisions of this ordinance shall, upon conviction thereof, be fined in a sum not exceeding ten dollars, and in default of payment thereof be imprisoned for a period not exceeding ten days. 27 Dec., 1893. A, 436, §3.

**Police to enforce regulations.**

4. It shall be the duty of the chief of police and police constables of the city to strictly enforce the regulations herein contained. Id., §4.

**Children not to be carried, &c.**

5. That hereafter the carrying of children in baby seats or other appliances by riders on bicycles and tandems on any of the highways within the City of Harrisburg is hereby forbidden. 9 Dec., 1898. B, 427, §1.

**Penalty.**

6. Any person violating this ordinance shall, upon conviction thereof before the mayor or any alderman of the city, be fined not exceeding ten dollars; and in default of the payment thereof shall be imprisoned for a period not exceeding five (5) days. Id., §2.

**Billboards.**

[See LICENSE AND LICENSE TAXES.]

Billboards regulated, 2.  
Indecent matter prohibited, 5.  
License, when payable, 4.  
License tax, 1.

Penalty, 6.  
Permit, 8.  
Plan to be filed with building inspector, 3.

**License tax.**

1. That a license tax of one-quarter cent per square foot per year be and the same is hereby levied upon the owners or proprietors of all billboards within the City of Harrisburg, and that the same shall be collected as other license taxes are now by law collectible. 9 March, 1901. C, 7, §1.

**Billboards regulated.**

2. That no billboards shall be constructed or erected on or along any highway or placed against any building within the limits of the city exceeding ten (10) feet in height. All billboards erected upon any vacant lots shall not extend beyond the house line as given by the city engineer. Any billboard erected within the City of Harrisburg after the passage and approval of this ordinance shall not exceed ten (10) feet in height. And any billboard remaining upon any highway or against any building not in accordance with the provisions of this section three months after the passage and approval of this ordinance, shall be removed and appropriated by the commissioner of highways, and the owners or proprietors of such billboards shall be liable to the penalty provided for the violation of this ordinance. 9 March, 1901. C, 7, §2.

**Plan to be filed with building inspector; Permit.**

3. That hereafter any person who shall erect a billboard shall first file with the inspector of buildings a plan, showing the size, dimensions and location of said board, and upon exhibiting to said inspector a receipt for the license as aforesaid, and after the ap-

proval of the said plan, he shall receive a permit therefor for the current license year or the remaining part thereof. Id., §4.

**License, when payable.**

4. That said license herein provided shall be due and payable at the time and place, and in the manner provided by ordinance for the payment of other city licenses, and permits for the continuance of billboards shall be taken out as aforesaid before the first day of June of each license year. Id., §5.

**Indecent matter prohibited.**

5. All lewd, vulgar, obscene and indecent advertising matter is hereby prohibited and forbidden to be spread upon any billboard in view of the public. Id., §6.

**Penalty.**

6. Any person violating any of the provisions of this ordinance shall, on conviction thereof before the mayor or any alderman of the city, be fined not more than fifty dollars (\$50.00) and costs, and in default of the payment thereof shall be imprisoned in the jail of Dauphin county until the same shall be paid, not exceeding thirty days. Id., §7.

## Board of Health.<sup>1</sup>

[See GARBAGE—NUISANCES.]

Appeals from sanitary committee's orders regulated, 9.

Ashes, offal, &c., to be removed in closed carts, 11.

Births to be reported, Rules 25, 34.

Board of health, joint sanitary committee constituted, 1.

Burial and removal permit to be obtained, Rule 33.

Butcher's offal, &c., Rules 13, 14.

Cellars, &c., to be kept inoffensive, Rule 36.

Cesspools to be inspected, Rule 4.

Cesspools, privies, how to be cleaned, Rule 37.

Cesspools, privies, contents of, where to be deposited, Rule 38.

Chicken coops, &c., Rule 16.

Children to be vaccinated, Rule 20.

Children not vaccinated, &c., to be refused at all schools; evidence, Rule 21.

Complaints to be investigated, Rule 3.

Coroner to give death certificate in certain cases, Rule 32.

Examination of premises to be made by sanitary policemen for, unwholesome, &c. matter, Rule 1.

Expenses, to be provided by councils, 14.

Death certificates, Rule 32.

Fines appropriated to enforce ordinance, 13.

Funerals, public or church, in certain cases forbidden, Rule 23.

Garbage, &c. carts to have name of owner displayed, Rule 24.

Garbage, &c. carts to be tightly secured, Rule 42.

Garbage, &c. carts not allowed to stand more than 15 minutes, Rule 42.

Glue factories, &c., regulated, Rule 17.

Grounds or premises not to become offensive, Rules 22, 40.

Hotel room, when to be disinfected, Rule 30.

Infected places, persons, &c., from, not to be admitted, Rule 18.

Information to be considered confidential, Rules 2, 11.

Interfering with sanitary officer, penalty for, Rule 43.

Livery stables, Rule 39.

Notice of orders for removal of dangerous, &c. matters; proviso, 8.

Offal not to be cast into cesspools, Rule 8.

Offensive matter not to be thrown on streets, in river, canal or creek, Rule 7.

Oil refineries, tanneries, &c., Rule 39.

Oyster shells, &c., when to be removed, Rule 10.

Patients with certain diseases to be reported, Rule 41.

Penalties for violating rules, 13; Rules 23, 31, 35, 36, 38, 41, 42, 44.

Physicians to report births, Rules 25, 34.

Physicians to report certain patients, Rule 41.

Physicians to report deaths, Rule 32.

Pig styes, &c., prohibited, Rule 15.

Powers of sanitary committee, 7.

Powers enlarged, 3.

Premises for sale of meat, fish, vegetables, &c., to be clean, &c., Rule 9.

Premises to be disinfected after use by certain patients, before re-rental, Rule 30.

Proceedings of committee public, 15.

Public conveyances, as to use of in certain cases; when to be disinfected, Rule 29.

Public halls, &c., may be closed and quarantined in certain cases, Rule 44.

Receptacles, separate, for ashes and offal, 11; Rule 6.

Receptacles, when to be cleaned, 11.

Removal of sick persons, Rule 27.

Repeal, 4, 16.

<sup>1</sup> See 22 March, 1872. P. L. 500, and 5 April, 1873. P. L. 552, §19.

- Reports by sanitary committee, 10.  
 Rules and regulations to be made, 2.  
 17. Rules and regulations to be carried out, Rule 5.  
 Sanitary committee created, 6.  
 Sanitary committee constituted board of health, 1.  
 Sanitary committee powers, 7.  
 Sanitary committee to make rules and regulations, 2.  
 Sanitary committee to report, 10.  
 Sanitary policemen, to be appointed, 12.  
 Sanitary policemen, duties and powers, 12, 17.  
 Sanitary rules, 17.  
 Slaughter houses, Rules 12, 14, 39.  
 Slops, soap-suds, &c., not to be thrown into non-sewered cesspools, Rule 8.  
 Spitting upon streets, in street cars, &c., prohibited, Rule 26.  
 Spreading of disease, &c., Rule 27.  
 Sufferers with certain diseases, or recently recovered, not to ride in public conveyances without giving notice, Rule 29.  
 Tainted provisions, 5; Rule 11.  
 Tainted provisions to be reported; information involubly secret, Rule 11.  
 Temporary hospital, 10.  
 Undertaker, duties of, Rule 33.  
 Vaccinated, persons not, to be reported by sanitary policemen, when ordered, Rule 19.  
 Veal, young, 5.  
 Weeds to be removed and gutters cleaned, Rule 22.

**Joint sanitary committee invested with power.**

1. That the joint sanitary committee of councils be, and hereby is, invested with the full power and authority of a board of health regularly constituted under the act of May 23, 1889, and shall make and enforce all needful rules and regulations to secure the general health of the inhabitants, in accordance with the provisions of said act of assembly, approved May 23, 1889, or of any other act or acts applicable to the City of Harrisburg. 26 July, 1898. B, 407, §1.

**To make rules and regulations to prevent introduction and spread of diseases.**

2. That the sanitary committee, constituted as a local board of health, be and the same is hereby authorized and empowered to make and adopt all needful rules and regulations to prevent the introduction and spread of infectious or contagious diseases, and to enforce the same by imposing fines and penalties for the violation thereof; *Provided*, Said fines shall not exceed fifty dollars for each offense, and in default of payment thereof the imprisonment shall not exceed thirty days. 11 March, 1901. C, 13, §1.

**Powers enlarged.**

3. That the committee on sanitary affairs be and it is hereby invested with all the powers conferred upon boards of health, by section 5, of article II, of the Act of Assembly of May 23, 1889, entitled "An act providing for the incorporation and government of cities of the third class," as amended by the Act of May 16, 1901, Pamphlet Laws, 244, and said committee on sanitary affairs is authorized, empowered and directed to make all proper rules and regulations for carrying out and enforcing the provisions of said Act of Assembly. 15 Jan., 1904. C, 715, §1.

**Repeal.**

4. All ordinances or parts of ordinances inconsistent herewith are hereby repealed. *Id.*, §2.

**Tainted provisions; Veal, young.**

5. That all beef, pork, mutton, lamb, veal, and all kinds of poultry and fish, and all other articles of food whatever, that shall be brought to market, or publicly exposed to sale in the city, and shall be found diseased, tainted, or in any manner rendered unwholesome, or unfit for use, and all veal which, when killed, shall not have been of the age of four weeks, shall be forfeited;



and the person or persons exposing the same for sale shall, moreover, on conviction thereof, forfeit and pay a fine of four dollars for the use of the city. 2 March, 1861. 1, 19, §6.

**Sanitary committee.**

6. That the sanitary committee of councils now appointed shall have all the powers and duties, and be subject to all the responsibilities hereinafter conferred and defined. It shall be the duty of the presidents of select and common councils respectively, at the first meeting in April annually, to appoint a joint committee to be known as a sanitary committee, which shall be composed of three members of select council and six members of common council. 14 July, 1882. 2, 86, §1.

**Powers.**

7. The committee so appointed shall have full power and authority to abate and remove all and every nuisance and to assess the costs and expenses of the same upon the property, which assessment, when duly certified to the city controller, shall become a lien to be collected the same as any other city tax, and the city controller shall promptly communicate each assessment, with the description of the property and the name of the owner, or reputed owner, to the city solicitor, to be entered in the proper docket in the prothonotary's office. The committee shall also have power, and it shall be their duty, to compel the proprietors, or owners, agents or assigns, occupants or tenants, of the lot or property, house or building, upon which any nuisance may be found, to abate and remove the same, to regulate the construction and arrangement of water closets, privy vaults, and the emptying and draining the same, to establish a complete and accurate system of sanitary inquiries. When complaint is made, or a reasonable belief exists, that an infectious or contagious disease prevails in any locality or house, they shall make the necessary investigation, and discovering that such infectious or contagious disease exists, they shall make such orders, rules and regulations as to them seem the best for the prevention of the spreading of the disease as from time to time they may deem necessary and proper for the health of the city, which orders, rules and regulations shall be in accord with existing ordinance. Id., §2.

**Notice of order for removal of dangerous matter; Proviso.**

8. Whenever any building, erection, excavation, business pursuit, matter or thing, or sewerage, drainage or ventilation thereof, in the opinion of the committee, either in whole or in part, be in condition or in effect dangerous to life or health, they declare the same to be removed, altered, abated or purified, said order shall specify the cause, and before its execution shall send to the owner, agent or occupant or tenant thereof copy of said orders; *Provided*, Said parties or any of them can be found, and if the party upon whom the order is served shall, before its execution, apply to have the order or execution thereof stayed or modified, it shall be the duty of the committee to temporarily suspend or modify the same for a reasonable time, so that said party may be heard and present

proofs in favor of its modification, and the committee shall enter upon the minutes such facts and proofs as they may receive, and may rescind, modify or reaffirm such order and require its execution, as it may determine. Id., §3.

**Appeal regulated.**

9. Any person feeling aggrieved by the final action of the committee, may present an appeal in writing, within twenty-four hours, to the select council, by placing the same in the hands of the president thereof, who shall at once convene the select council in special session to consider the same, unless the next stated meeting shall be held within three days after the appeal is taken. Such appeal shall be considered upon the minutes of proofs made by the committee exclusively, and shall take precedence of all other business until disposed of, and the select council may reaffirm, modify or rescind the order of the committee. No such appeal shall be considered unless the appellant make and file therewith an affidavit before the mayor or some alderman of the city that the appeal is not taken for delay, but because he verily believes that injustice has been done. Id., §4.

**Temporary hospital; Reports.**

10. They may, during the prevalence of any epidemic disease, provide a temporary hospital. They shall report quarterly to councils, and also, at the first meeting in the month of March in each year, make an annual report setting forth the sanitary condition of the city, and suggesting such further legislation they may deem proper. Id., §5.

**Separate receptacles for ashes and offal; Cleaning.**

11. They may make and enforce rules and regulations by which every household in the city shall be compelled to provide two convenient receptacles for ashes and offals or other refuse, vegetable matter, respectively, and keep and maintain the same upon the premises so as to be easily accessible to such persons upon whom the duty of removing the same may be devolved. They shall also require such person as may be appointed for the purpose to empty such receptacles at least once in every week, and as often as the committee may deem expedient, for the health of the city; they shall also provide a place, as convenient as may be for the purpose, where the ashes, offals and garbage thus collected shall be hauled in closed carts and deposited. Id., §6.

**Sanitary policemen.**

12. Upon the passage and approval of this ordinance the mayor shall, upon the recommendation of the sanitary committee, nominate, and by and with the consent and advice of select council, appoint two persons as sanitary policemen, who shall have all the powers now by law vested in other police officers of the city. Said policemen shall be under the exclusive direction and control of the sanitary committee, and shall be removed by the mayor at its request, and others appointed as herein provided; said police officers shall serve all notices to be issued from any and all departments and officers of the city, and make proper and legal returns of such

service, and perform such other duties as the committee may prescribe. Id., §7.

**Penalty; Fines.**

13. Any person who shall violate or refuse to comply with any of the provisions of this ordinance, or shall violate any order, rule or regulation made by the sanitary committee under the provisions hereof, or shall obstruct or interfere with the execution thereof, or shall refuse to comply with any rule, order or regulation made by said committee, shall, on conviction thereof before the mayor or any alderman of the city, be fined not exceeding one hundred dollars. All fines received under this ordinance shall be appropriated from time to time to carry its provisions into effect, and shall be used for no other purpose. Id., §8.

**Expenses.**

14. All expenses incurred in carrying out the provisions of this ordinance shall be provided by councils, upon proper certificates and estimate of the committee. Id., §9.

**Proceedings of committee.**

15. The proceedings of the committee shall be public, and all its records open to the inspection of any taxpayer. Id., §10.

**Repeal.**

16. All ordinances or parts of ordinances conflicting with the provisions of this ordinance be and the same are hereby repealed. Id., §11.

**SANITARY RULES.**

**Sanitary policemen to examine and report.**

17. RULE 1. The sanitary policemen shall make a careful examination of all premises within the city, and make report from time to time to the chairman of the sanitary committee; and they shall be permitted to enter, in day time, any house, store, stable, out-house or other building, so as to carefully examine the cellars, vaults, sinks, drains, privies and sewers, and in case anything connected with or about the premises is found to be unwholesome or likely to become so, to report fully to the chairman. 31 Oct., 1892. A, 159.

**Information confidential.**

RULE 2. They shall receive all information offered or communicated to them by any person whomsoever, relating to the unclean or unwholesome condition of any premises in the city and not divulge the name of such informant other than to committee. Id.

**Complaints.**

RULE 3. Upon receiving information from any source whatsoever, that any premises are in a condition dangerous to the health of the neighborhood, or offensive and unwholesome, or likely to become so, they shall promptly note the statement made and make a careful examination and view of the premises and ascertain

the condition thereof, and the source and reason for the complaint, and make full report thereof to the chairman of the committee. Id.

**Cesspools to be inspected.**

**RULE 4.** They shall report what privies or cesspools are nearer any public highway than the ordinances of the city permit, and what are filthy and require emptying and cleansing, with the names of the owners and tenants and a location and description of the property on which they are found. Id.

**Sanitary policemen to enforce rules.**

**RULE 5.** They shall diligently see to it that all the rules and regulations made and promulgated by the committee, all the ordinances relating to the health of the city, now in force or hereafter to be made and passed, are strictly complied with and enforced, and perform all other duties mentioned and enjoined by this chapter, and for any failure to comply with any of the provisions of this chapter or these rules, or any neglect or refusal to obey any instruction or command issuing from the committee, they shall be dismissed from office. Id.

**Receptacles for garbage and ashes.**

**RULE 6.** Every dwelling and tenement house in the city shall have at least one suitable receptacle for garbage, kitchen offal and refuse matter, and one other such receptacle for ashes, and no garbage, kitchen offal or refuse matter shall be placed or deposited with the ashes from such dwelling or tenement. Id.

**Offensive matter not to be thrown upon streets, &c.**

**RULE 7.** No person shall place or deposit, or cause to be thrown, placed or deposited, any dung, carrion, dead animal, offal or any putrid or unwholesome substance whatsoever, or the contents of any privy or cesspool, or any portion of either, in the Susquehanna river, or in the canal or Paxton creek, within the limits of this city, or upon any street, avenue or alley, whether public or private, or upon any lot within the limits of this city. Id.

**Cesspools not to receive ashes, &c.**

**RULE 8.** No person shall throw into or deposit in any vault, sink, privy or cesspool any offal, ashes, meat, fish, garbage or other substance, except that of which such place is the appropriate receptacle; nor shall any slops, soapsuds or dish water be permitted to run into any privy or cesspool, except the same be connected with a sewer. Id.

**Premises for sale of meat, fish, vegetables, &c.**

**RULE 9.** Every person being the owner, lessee or occupant of any room, stall, stand or place where any meat, fish, oysters, clams, fowls, game or vegetable designed or held for food shall be stored or kept, shall put and keep such room, stall, stand or place, with all its appurtenances, in a clean and wholesome condition. Id.

**No oyster shells, &c.**

**RULE 10.** No oyster, clam, turtle, lobster or crab shells or other offal or refuse from any such establishment or place shall be ex-

posed on the street or sidewalk, and all such offal and refuse matter shall be removed after the hour of five p. m. and before the hour of nine a. m., as often as may be necessary. Id.

**Tainted food.**

RULE 11. It shall be the duty of every person knowing of any stale, unhealthy, unwholesome or tainted fish, meat, fowls, birds or vegetables kept or offered for sale in any market, store, stall or other place, to report the same at once to the sanitary policeman, or a member of the committee, in order that the same may be examined, seized and confiscated and the offender punished; and all such information shall be regarded as inviolably secret and private. Id.

**Slaughter houses.**

RULE 12. It shall be the duty of every butcher or owner, lessee or occupant of every slaughter house, or other place where animals are slaughtered for food, to cause such place, with the premises attached and the appurtenances thereto, to be thoroughly cleansed and purified, and all offals, blood, fat, garbage, refuse and all unwholesome or offensive matter to be removed therefrom at least once in every twenty-four hours after the use thereof for the purpose herein mentioned; and no blood or dirty water or other substance from cattle or such slaughter place or the appurtenance thereof, shall be allowed to run or fall or be in any street, avenue or alleyway, whether public or private. Id.

**Butcher's offal, &c.**

RULE 13. No butcher's offal or garbage, nor any dead animal, nor any putrid or stinking carcass or vegetable matter, shall be thrown by any person, or allowed to go into any street, place, sewer or receiving basin, or into any standing or running water, or excavation, or upon any ground or premises within the city. Id.

**Butchers' offal, how to be conveyed.**

RULE 14. No butchers' offal, or other refuse, from any slaughter house, shall be conveyed through the streets of the city at any time, unless the same shall be confined in tight boxes, boards or other vessels from which no offensive odor shall escape. Id.

**Pig sty, &c.**

RULE 15. No pig styes or hog pens shall be established or maintained within this city, and all such places now in existence in this city are public nuisances. Id.

**Chicken coops, &c.**

RULE 16. All coops, pens or other places where chickens or other fowl are kept shall be cleansed and purified as often as necessary to keep the premises in a wholesome condition. Id.

**Glue factory, bone mills, &c.**

RULE 17. No glue factory, bone mill and no establishment or place of business for tanning, skinning, scouring or dressing hides or leather, or for carrying on any noisome trade or business, shall hereafter be located, opened, started or operated within the

City of Harrisburg without a license or permit from the councils, granted by ordinances regularly passed and approved by the mayor; and every such establishment now existing shall be kept clean and wholesome and be so conducted in every particular as not to be offensive or injurious to life or health. Id.

**Nothing from infected places, &c.**

**RULE 18.** No person shall bring into the city, from any infected place, building or habitation in which any person has lately been sick of a contagious disease, any article or person, nor any pet dog, cat, bird or other thing whatsoever; nor shall any such person come into this city without a permit from the sanitary committee, and it shall be no excuse that such person or article shall have been cleansed, disinfected or has a permit from any source other than said committee. Id.

**Persons not vaccinated.**

**RULE 19.** The sanitary policemen shall, when directed by the committee, visit every family in the city and ascertain what members thereof have not been properly vaccinated, and report their names and places of residence to the committee, in order that proper measures may be taken to require such persons to be vaccinated. Id.

**Children to be vaccinated.**

**RULE 20.** That every person being parent or guardian, or having the care, custody or control of any minor child or other person shall cause such child or other person to be so promptly, frequently and effectively vaccinated, that such minor or other person shall not be liable to take the small-pox. Id.

**Children not vaccinated not to be received in schools; Evidence.**

**RULE 21.** No principal of any public school, and no principal or teacher of any private, sectarian or other school shall admit to any such school any child or minor who shall not have been vaccinated within seven years next preceding the application for admission of such child or minor; nor shall any such principal or teacher retain in or permit to attend any such school any child or minor who shall not have been vaccinated within the time herein mentioned. The evidence of such vaccination shall be a certificate from some known physician of the city, or such certificate from the chairman of the sanitary committee. Id.

**Weeds; Gutters.**

**RULE 22.** Every owner, tenant or occupant of premises within this city shall keep the same free from the growth of noxious weeds and other useless vegetation, and where such premises are situated on or along any street, avenue, turnpike or alley, whether public or private, the owner, tenant or occupant thereof shall keep the gutters clean and free from vegetation of every sort so that the surface water and proper drainage may flow in and along such gutters without any impediment or obstruction. Id.

**Penalty.**

**RULE 23.** Every violation or infraction of the foregoing rules, whether it be by omitting, failing or refusing to comply with

what is therein and thereby, or in any one thereof, commanded, required and enjoined, or by doing what is therein prohibited, shall subject the offender, upon conviction thereof before the mayor or any alderman of the city, to a fine of not less than five nor more than one hundred dollars, or to imprisonment for not less than five nor more than sixty days, or, in extreme and aggravated cases, to both, in the discretion of the officer before whom the conviction is had. Id.

**Names on carts for garbage.**

**RULE 24.** That every owner of a cart or wagon, as allowed by sanitary committee, used for hauling garbage, offals, ashes, cleanings of cellars, yards, dwellings, and rubbish of whatsoever kind, shall place conspicuous upon said cart or wagon the name of owner thereof. 11 April, 1893. A, 307.

**Births to be reported.**

**RULE 25.** That all physicians and midwives shall return to the office of the sanitary committee on the first day of each month, or oftener if required by the sanitary committee, a report on the printed forms furnished by the sanitary committee, all and every birth attended by said physician or midwife during the preceding month. In cases where a physician or registered midwife have not been in attendance, parents shall report birth within twenty-four (24) hours thereafter. Any violation of this rule will be subject to the penalties as prescribed in Rule 23, of Code of Sanitary Rules. 29 March, 1895. A, 195.

**Spitting.**

**RULE 26.** That spitting upon the sidewalks, in the street cars, and all public places is strictly forbidden, and any person or persons convicted before the mayor or any alderman of the city for violating this rule, the same is to be punished by a fine not exceeding five dollars (\$5.00) and imprisonment not exceeding five days in the jail of Dauphin county. 13 March, 1901. C, 15.

**Removal of sick persons; Expenses.**

**RULE 27.** No person shall, unless by permit of the sanitary committee, carry or remove from one building to another any patient affected with any communicable disease, dangerous to the public health. Nor shall any person, by any exposure of any individual so affected, or of the body of such individual, or of any article capable of conveying contagion or infection, or by any negligent act connected with the care or custody thereof, or by a needless exposure of himself or herself, cause or contribute to the spread of disease from such individual, or dead body. 18 May, 1901. C, 46.

**Funeral, public or church.**

**RULE 28.** There shall not be a public or church funeral of any person who has died of Asiatic cholera, small-pox, typhus, diphtheria, yellow fever, scarlet fever or measles, and the family of the deceased shall in all cases limit the attendance to as few as possible, and take all precautions possible to prevent the exposure

of other persons to contagion or infection; and the person authorizing the public notice of death of such person shall have the name of the disease which caused the death appear in such public notice. Id.

**Public conveyances.**

RULE 29. No person suffering from or having very recently recovered from small-pox, scarlet fever, diphtheria, yellow fever or measles shall expose himself, nor shall any one expose a person under his charge in a similar condition, in any public conveyance, without having previously notified the owner or person in charge of such conveyance of the fact of such condition as above stated. And the owner or person in charge of such conveyance must not, after the entry of any person so affected into his conveyance, allow any other person to enter it without having sufficiently disinfected it. Id.

**Rooms, &c., to be disinfected.**

RULE 30. No person shall let or hire any house or room in a house in which a communicable disease, dangerous to the public health, has recently existed, until the room or house and premises therewith connected have been disinfected, and for the purpose of this the keeper of a hotel, inn or other house for the reception of lodgers, shall be deemed to let or hire part of a house to any person admitted as a guest into such hotel, inn or house. Id.

**Penalty.**

RULE 31. Every person violating Rules 27, 28, 29 and 30 is liable for every such offense, upon conviction before the mayor or any alderman, to a fine of not more than one hundred dollars. Id.

**Death certificate; Coroner.**

RULE 32. Whenever any person shall die in the City of Harrisburg it shall be the duty of the physician in attendance during his or her last sickness, and of the coroner (when the case comes under his notice), to furnish to the undertaker or any person superintending the burial, a certificate setting forth, as far as the same can be ascertained, the full name, occupation, sex, color, age and condition (whether married or single), birthplace, residence, birthplace of father and mother, name of father, name of mother, place of death (if the death occurs in an institution give the name of the same), cause of death, duration of last sickness of the dead person, and in case any person shall die without the attendance of a physician, or if for any reason the certificate of the aforesaid shall not be furnished, it shall be the duty of the physician to report the said case to the coroner, who shall proceed to make an examination and give his certificate of the death as aforesaid. 13 Oct. 1902.

**Permit for removing or burying corpse.**

RULE 33. It shall be the duty of any undertaker or other person, before removing any human corpse from one house, building or street to another, or for burial, cremation or any purpose whatever, to obtain from the secretary of the sanitary committee a



permit so to do, but before obtaining such permit he shall deposit in the office of the sanitary committee the physician's or coroner's certificate, together with his own certificate, setting forth as nearly as can be ascertained the birthplace of the party, ward, number of street and late residence in said city, time of residence therein, place of previous residence, name of father, name of mother and their birthplace, and if death occurred in an institution the name of the same, the age, day of birth, day of death and place and date of intended interment, which certificate shall be signed by the undertaker as well as the physician and surgeon in attendance at time of death, and no sexton or superintendent of the cemetery or other person shall assist in or allow any such interment or other disposition, or aid or assist in preparing any grave or place of deposit for such body for which such permit shall not have been given authorizing the same; nor shall any railroad company or its employes or any other means of conveyance receive any such body for which permit shall not have been granted. Id.

**Births to be registered and returned.**

**RULE 34.** Every physician or person practicing midwifery in the City of Harrisburg under whose charge or superintendence a birth shall hereafter take place, shall keep a true and exact register of such birth and shall enter the same on a blank schedule to be furnished by the secretary of the sanitary committee, which schedule shall contain a list of the births which have occurred under his or their care during the month, and shall set forth as far as the same can be ascertained the full name of each child (if any name shall have been conferred), its sex, color, and the full name and occupation of its parent or parents, their birthplace and the day and place of the birth; and the said schedule shall be delivered, duly signed by the practitioner in the form of a certificate, at the end of each and every month or within five days thereafter, to the said secretary of the sanitary committee. In case the birth of any child shall have occurred without the attendance of a physician or a practitioner of midwifery, it shall then become the duty of the parent or parents of such child to report its birth to said secretary of the sanitary committee in the manner and form and within the period above required. Id.

**Penalty.**

**RULE 35.** Every physician, surgeon, midwife, undertaker, superintendent of a cemetery or other person or persons, firm or corporation, violating Rules 32, 33 and 34 is liable for every such offense, upon conviction thereof before the mayor or any alderman of the city, to a fine of not more than one hundred dollars, and in default of the payment thereof, to be imprisoned in the jail of Dauphin county for a period not exceeding twenty days. Id.

**Cellars, vaults, sewers.**

**RULE 36.** No person shall suffer or permit any cellar, vault, private drain, pool, privy, sewer or sink upon any premises belonging to or occupied by him to become nauseous, foul, offensive or injurious to the public health, under a penalty of not less than

five nor more than fifty dollars, and a like penalty for every day the same shall continue after notice to remove and abate the same; upon the failure to pay said fine said offender shall be imprisoned in the jail of Dauphin county for a period not exceeding twenty days. *Id.*

**Privy well; Vehicles, &c., may be seized.**

RULE 37. No person shall be permitted to remove or cause to be removed any portion of the contents of a privy well, excepting in carts or vehicles so constructed as to be air tight and securely covered on the top; and if any person shall so do, or cause to be done, he shall forfeit and pay a fine of twenty dollars for each offense; and any constable or police officer is hereby authorized to seize and detain all carts, vehicles and horses actually taken with any person or persons detected in any violation of this section, and to deliver the same to the health officers for safe keeping, and as security for the payment of the penalty above prescribed. *Id.*

**Privy contents.**

RULE 38. No person shall deposit the contents of any privy at any point within the city, other than such as may be designated by the sanitary committee for such purposes, or without a permit from the secretary of the sanitary committee, under a penalty of not less than ten nor more than fifty dollars, and in default of the payment thereof to be imprisoned in the jail of Dauphin county for a period not exceeding fifteen days. *Id.*

**Offensive places.**

RULE 39. Any owner, or occupant of any oil refinery, tallow chandler's shop, soap factory, tannery, distillery, livery stable, cattle yard, or pen, barn, packing house, slaughter house or rendering establishment who shall suffer the same to become nauseous, foul or offensive, shall pay a fine of not less than twenty-five dollars nor more than one hundred dollars, and in default of the payment thereof, to be imprisoned in the jail of Dauphin county for a period not exceeding fifteen days. *Id.*

**Offensive grounds.**

RULE 40. If any person, persons or corporation shall own, occupy or keep any grounds or other premises in such condition as to be offensive and a nuisance to the neighborhood, such person shall pay a fine of not less than ten nor more than fifty dollars, and a like fine for every day such nuisance shall continue after the first conviction, and in default of the payment thereof to be imprisoned in the jail of Dauphin county for a period not exceeding fifteen days. *Id.*

**Certain patients to be reported.**

RULE 41. Every practicing physician who shall have a patient under any malignant, pestilential or infectious disease, shall forthwith make report thereof to the secretary of the sanitary committee, describing the street, number and locality of the house or place where said patient may be; and for neglecting so to do he shall be liable to a fine of fifty dollars for each and every offense,

and in default of the payment thereof, to be imprisoned in the jail of Dauphin county for a period not exceeding fifteen days. Id.

**Garbage, &c., carts.**

**RULE 42.** That it shall be unlawful for any person or persons or corporation, engaged in gathering, or hauling, or carrying bones, grease, dead animals, offal or garbage, to do so without having the wagon, cart or vehicle in which the same is so carried or hauled tightly and securely covered to the satisfaction of the sanitary officers and police constables; nor shall any wagon, cart or vehicle used for such purpose be suffered to stand in or upon any street, alley or public place in the city longer than shall be sufficient to transact such business, and in any case not more than fifteen minutes; and any person, persons, firm or corporation violating any of the provisions of this section shall be subject to a fine of not less than five nor more than fifty dollars for each and every offense, and in default of the payment thereof, shall be imprisoned in the jail of Dauphin county for a period not exceeding fifteen days. Id.

**Interfering with sanitary officer.**

**RULE 43.** If any person shall prevent or attempt to prevent the sanitary officer, together with his subordinates, assistants and workmen, acting under and by order of the sanitary committee, from entering at any time upon any premises in the city, upon or in which there is suspected to be any infectious or contagious disease, or nuisance detrimental to the public health, for the purpose of examining and abating the same, he or she shall, upon conviction thereof before the mayor or any alderman of the city, be subject to a fine of not less than five dollars (\$5) nor more than one hundred dollars (\$100) and costs of prosecution; and in default of the payment thereof, be imprisoned in the jail of Dauphin county for a period not exceeding thirty (30) days. 11 Nov., 1904. D, 177.

**Public halls, churches, &c.**

**RULE 44.** Any public hall, auditorium, church, theater, or other place of public amusement, that has been attended by any person afflicted with an infectious or contagious disease, or by a person who has been in direct contact with another who has been known to have an infectious or contagious disease, shall be closed and quarantined for such time as the sanitary committee, exercising a wise and reasonable discretion, shall direct, for the purpose of preventing the spread and propagating of such disease or diseases, and any person who shall disobey the orders of the sanitary committee, and refuse to close such public hall, auditorium, church, theater, or other place of public amusement, when directed so to do by order of the sanitary committee, shall upon conviction thereof before the mayor or any alderman of the city, be fined not less than five dollars (\$5) nor more than one hundred dollars (\$100), and costs of prosecution; and in default of the payment thereof, be imprisoned in the jail of Dauphin county for a period not exceeding thirty (30) days. Id.

## Board of Public Works.

Authorized to employ engineers, &c.,	Minority to be represented, 2.
5. Compensation, none allowed, 2.	Qualifications, 1.
Department created, 1.	Repeal, 6.
Duties, 3.	Reports, 3.
Members, how elected, 2.	Vacancies, how filled, 2.
Members, how removed, 2.	Works committed to board, 4, 7.
	Work to be done by contract, 4.

### Board of public works created; Qualifications.

1. That there shall be and hereby is created a department of the government of the City of Harrisburg to be known as the board of public works; that it shall consist of three members, who are qualified electors and freeholders of said city; that they shall be styled the commissioners of the board of public works, and shall not be connected with the city government in any other way; and that no two persons from the same ward shall be eligible to serve on said board at the same time. 17 Jan., 1902. C, 166, §1.

### Election; Compensation; Vacancies.

2. That within ten days after the passage and approval of this ordinance, and every four years thereafter so long as necessary, the select and common councils of the City of Harrisburg shall meet in joint convention and elect three persons qualified under this ordinance to constitute said board. Each councilman shall be entitled to vote for two commissioners, and the three persons receiving the highest number of votes shall be declared elected; and they shall serve for a term of four years, and until their successors shall be duly elected and qualified. They shall take and subscribe to the oath of office prescribed for all officers of the several cities of the third class, and shall not receive any compensation for the services performed by them as such commissioners, nor shall they be, either directly or indirectly, interested in any contract for work done for said city under their authority and control. Whenever a vacancy shall occur in said board, from any cause, it shall be filled by the remaining commissioners, on the principle that the minority vote of the joint convention shall be represented by one member, and the person chosen shall serve for the unexpired term of the commissioner whose place was vacated. If more than one vacancy shall occur at the same time councils shall fill the same for the unexpired term thereof in the manner herein prescribed for the election of said commissioners; *Provided, however,* That the minority vote of the joint convention shall always have one representative on said board. Any or all of said commissioners may be removed from office for neglect of duty upon a two-thirds vote of councils, either in joint convention or by joint resolution. Id., §2.

### Duties; Reports.

3. The said commissioners shall organize not later than the second Monday succeeding their election, and annually thereafter; shall hold regular meetings, keep full and complete minutes thereof, and make and enforce all necessary rules and regulations for

the proper management of their department. They shall from time to time, at least once every three months, make report to councils of the work performed by them, and they shall also make an annual report of all their proceedings. Id., §3.

**Works in charge of board; Work to be done by contract.**

4. The said commissioners shall have sole charge of and authority over the public work and improvements contemplated and intended to be made under and by virtue of common council ordinance No. 20, Sess. 1901, entitled "An ordinance to provide for an increase of indebtedness of the City of Harrisburg for the extension and improvement of the sewerage system; for the construction of a dam in the Susquehanna river to form part of the sewerage system; for acquiring land and property for parks, and for making park improvements; and for the creation of a fund out of which the city may defray the expenses of paving the intersections of streets hereafter authorized to be paved; and authorizing the submission to a vote of the people, and fixing a day for the holding of an election for the purpose of obtaining the assent of the electors to the increase of indebtedness; and authorizing the corporate authorities of Harrisburg to make the necessary announcements by public advertisement to the electors, as required by law; and directing the corporate authorities to prepare and distribute the necessary ballots, as provided in the laws of the Commonwealth of Pennsylvania governing the increase of indebtedness of municipalities," except the public work and improvements incident to and connected with the purpose of "acquiring land and property for parks and for making park improvements," and "paving the intersections of streets hereafter authorized to be paved," in said ordinance designated, over which work and improvements the said commissioners shall have no authority or control whatever. All the public work over which said board is hereby given control shall be performed under contract, to be let by said commissioners after said contracts have been duly ratified and approved by councils; but no contract shall be made or expense incurred by said commissioners until an appropriation therefor shall first have been made by councils. Id., §4.

**Authorized to employ engineers, &c., and pay, &c.**

5. The said commissioners are hereby authorized to employ such engineers, artisans, experts and other persons as in their judgment may be necessary to perform the duties imposed upon them, and to pay all costs and expenses incurred in the discharge of their duties, by warrants drawn by them upon appropriations to be provided by councils. Id., §5.

**Repeal.**

6. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.<sup>1</sup> Id., §6.

<sup>1</sup> That the board of public works shall be and is hereby authorized and empowered to sell at public or private sale, as in its judgment shall best conduce to the city's interest, any city property in its possession

for which said board has no further use, and that the proceeds of such sale shall be passed to the credit of the board of public works. Res. 29 July, 1908.

**Works committed to board.**

7. That the board of public works be, and they are hereby, authorized and directed to take charge of the reconstruction of the Mulberry street bridge, prepare plans and specifications therefor, advertise for bids and award a contract for the reconstruction of the same to the lowest responsible bidder or bidders, subject to the approval of councils. 2. That the said board of public works are hereby further authorized and directed to take charge of the construction of the following sewers, viz: Main sewer or culvert for general drainage purposes from Paxton creek through Violet street, commonly known as Shannon avenue, to Cameron street; and thence through lots of George F. Mish and through lands of Hamilton, Lynch & Jennings, crossing the Philadelphia & Reading railway, to the sewer now existing at the west side of Seventeenth street, seventy feet south of the south side of Berryhill street, adding to, reconstructing, or otherwise using the main sewer in Violet street from Cameron street to Paxton creek, as the said board of public works may deem best. Sewer for general drainage purposes in Eighteenth street from Rudy street to Park street, using the sewer now in existence in Eighteenth street from Rudy street to Holly street, adding to or reconstructing the same as may seem best to the said board of public works. They shall prepare plans and specifications for said sewers, shall advertise for bids and let contracts for the same to the lowest responsible bidder or bidders, subject to the approval of councils.<sup>1</sup> 7 June, 1906. D, 619, §§1, 2.

<sup>1</sup> By ordinance of 16 March, 1904, D. 64, the board of public works were authorized to purchase that portion of the island in the Susquehanna river, formerly known as Hargest's Island, lying above the bridge of the People's Bridge Company, for the extension, improvement and filtration of

the water supply; and by the ordinance of 29 March, 1904, D. 76, the board was authorized to purchase a tract of land in the Tenth ward, containing about one-third of an acre, for the extension and improvement of the sewerage system.

**Bonds.**

Bonds for taking, &c., private property, how executed, &c., 2.  
Bonds of contractors, preliminary, regulated, 3.  
Bonds of contractors for performance of contract, regulated, 4.

Bonds to be filed in office of city solicitor, 5.  
City solicitor to approve, &c., 4.  
Improvement bonds, how marked, 1.  
Repeal, 6.

**Improvement bonds.**

1. That hereafter all bonds issued by the City of Harrisburg in payment of the cost of local improvements, under section 27, article xv, of the Act of Assembly approved May 23, 1889, entitled "An act providing for the incorporation and government of cities of the third class," shall have printed on the face thereof the words "Improvement Bond" and the name of the local improvement for which the bond is issued shall be added thereto, either in printing or writing. There shall also be printed on the face thereof, that said bonds rest alone upon, and are payable

out of, the assessments levied against the properties benefited by said improvement, and from no other fund. 31 Dec., 1892. A, 192, §1.

**Bonds for taking, &c., private property.**

2. That the mayor shall execute and the city clerk attest and deliver all bonds required by law to be filed by the city for the taking, injury or destruction of private property for public use. 11 July, 1904. D, 101, §1.

**Bond for performance.**

3. That all bids for contracts to be awarded for city work shall be accompanied by a preliminary bond equal in amount to ten per cent. of the estimated cost, conditioned for the faithful execution of a written contract when the same shall have been legally awarded. 11 Oct., 1905. D, 428, §1; amended 6 March, 1906. D, 506, §1.

**Bond of contractor, regulated; City solicitor to see that ordinance is complied with.**

4. And it is further ordained and provided that any contractor or contractors, having complied with the conditions mentioned in section 1 of this ordinance, and before beginning any of said work, shall be required to enter into a bond with at least two sufficient sureties, or some reliable surety company, for twenty-five (25) per cent. of the amount of the contract price for said work, conditioned for the faithful performance of all the terms and conditions stipulated in said contract, which bond shall be approved by the city solicitor, and forwarded to the city councils for their approval; and the city solicitor is hereby instructed to see that the conditions of this ordinance are strictly complied with before his approval of said bond. 11 Oct., 1905. D, 428, §2.

**Bonds to be filed.**

5. All bonds after their approval must be filed in the office of the city solicitor. Id., §3.

**Repeal.**

6. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. Id., §4.

## Boundaries.

[See WARDS.]

Boundaries 1860, 1.  
Boundaries 1868, 2.

Boundaries 1869, 3.  
Boundaries 1895, 4.

**Boundaries of the city, 1860; Name.**

1. That the present and future inhabitants of the borough of Harrisburg, and of the county of Dauphin, within the following boundaries, to wit: Beginning at low water mark on the western shore of the Susquehanna river, in a line with the south side of Reily street; thence across said river to low water mark on the eastern shore thereof, by a course bearing north sixty-four degrees

east; thence by the same course along the south side of Reily street one hundred and twenty perches, to the eastern side of the Middletown turnpike; thence north eight degrees west forty-six and a half perches to a post on the south side of the poor house road, in front of the brick house (now or late) of G. L. Metzger; thence north sixty-four degrees east fifty-two perches to a post in the old Jonestown road, in front of the house of John F. Williams; thence north fifteen and three-quarter degrees west six hundred and eleven perches to a point in a line with the centre of the state road leading from the Pennsylvania State Lunatic hospital to the river Susquehanna; thence by the centre of said road south seventy-four and a quarter degrees west three hundred and ninety-one perches, to the Susquehanna river; and thence continuing the same course across said river to the western boundary of Dauphin county; and thence by said western boundary down said river to the place of beginning, are hereby constituted a corporation and body politic, by the name and style of "The City of Harrisburg."<sup>1</sup> 19 March, 1860. P. L., 175, §1.

**Boundaries, 1868.**

2. [For extension of boundaries in 1868, see Wards, 1.]

**Boundaries, 1869.**

3. That the boundary of the City of Harrisburg shall be as follows: Beginning at a point on the western shore of the river Susquehanna, opposite to the southern side of the mouth of Spring run, on the eastern side of said river, on lands of Simon Cameron; thence from said southern side of the mouth of said run, north seventy-four degrees east one hundred and sixty-two perches to a corner; thence north sixteen degrees west about seven hundred perches, to a point at or near the line of Hamilton street; thence on a line at right angles with the northern line of said street, to the junction of said line with the northern side of Hamilton street, as at present marked out on the plot of said city.<sup>2</sup> 9 April, 1869. P. L. 771, §1.

<sup>1</sup> The boundaries of the borough, as given in the first act of incorporation (Act of 13 April, 1791, Dallas's Laws, vol. 3, p. 82), were as follows: "Beginning at low-water mark on the eastern shore of the Susquehanna river; thence by the pineapple tree, north sixty degrees and one-quarter, east seventy-nine perches, to an ash tree on the west bank of Paxton creek; thence by the several courses thereof three hundred and twenty-three perches to a white hickory in William Maclay's line; thence by the same south sixty-seven degrees and three-quarters, west two hundred and twelve perches to a marked chestnut oak on the eastern bank of the Susquehanna; thence by the same course to low-water mark, and from thence by the low-water mark to the place of beginning."

By the Act of 16 April, 1838. P. L. 630, the boundary line was "here-

by extended and enlarged as follows, to wit: Beginning at the southwestern corner of the present boundary line, on the Susquehanna river; thence extending along the same at low-water mark to the upper corner and line of the land of the late Mr. Maclay on said river, in Susquehanna township; thence by a parallel line to Paxton creek; thence along said stream to the northwestern corner of the present boundary line of the said borough of Harrisburg, so as to include the whole village or town of Maclaysburg within the limits of the aforesaid borough of Harrisburg, of which it is hereby made part and parcel, as fully and effectually as if the same had been originally included therein, for school and all other purposes whatsoever."

<sup>2</sup> For assignment to adjoining wards; see Wards, 2.



**Boundaries, 1895.**

4. That all that piece or parcel of land beginning at a point in the centre of Cameron street, thirty-five feet (35) north of the south side of Maclay street; thence westwardly along Maclay street and thirty-five feet (35) north of the south side of Maclay street, and by this line continued across Susquehanna river, to low water mark on the west shore of the Susquehanna river, about nine thousand six hundred and seventy feet (9,670); thence northwardly along the west shore of the Susquehanna river, and the low water line of the same, about six thousand one hundred and ten feet (6,110) to the centre of Park lane extended; thence eastwardly by the centre of Park lane extended and the centre of Park lane about nine thousand six hundred and fifty feet (9,650) to the centre of Cameron street, as laid out on the city official plat; thence southwardly through the centre of Cameron street, about three thousand four hundred and forty feet (3,440) to the place of beginning, containing one thousand and sixty acres, more or less, and being a part of the township of Susquehanna in the county of Dauphin and adjacent to the City of Harrisburg, be and the same is hereby annexed to and made part of the City of Harrisburg, in accordance with said petition and said map or plan which are hereto attached as part thereof.<sup>1</sup> 28 Nov., 1895. A, 746, §1.

<sup>1</sup> Annexed by decree of Court of Sessions Docket, No. 285, Sept. Term; Quarter Sessions, 20 Feb., 1895; see created the Tenth ward.

## Bridges.

[See BRIDGE COMPANIES—PAXTON CREEK—RAILROADS.]

Bridges across Paxton creek, how authorized, 1.

Penalty for tampering with water receptacles, &c., 3.  
Receptacles for water, 2.

**Across Paxton creek.**

1. That upon the application by ordinance duly approved by the council of said city, setting forth that a bridge is necessary across the Paxton creek, within the limits of said city, at the crossing of any street, the commissioners of Dauphin county may authorize the building of the bridge so required, of a width of not less than thirty feet, and of such other dimensions and materials as said board may deem most substantial to ensure safety to the traffic of said city, and shall repair and rebuild said bridge, as other county bridges are repaired and rebuilt.<sup>1</sup> 2 Jan., 1871. P. L. 1559, §5.

<sup>1</sup> Loan for construction of bridge over Paxton creek at Market street and a sewer to conduct Allison's run into creek, 5 Sept., 1866; 1, 284. Paxton creek to be straightened from State street to Lebanon Valley Railroad bridge; location of bridge at Market street fixed; 7 Feb., 1867; 1, 308. For opening waterway in Pax-

ton creek under stone bridge at Market street; 7 Sept., 1867; 1, 326. Paxton creek to be straightened from Maclay street to its outlet; 14 May, 1870; 1, 422. Requesting commissioners of Dauphin county to have a bridge built over Paxton creek at State street; 8 Feb., 1871; 1, 445. Five thousand dollars for excavating

**Receptacles for water.**

2. That it shall be the duty of the commissioner of highways to place on each bridge owned by the city, requiring protection from fire, a sufficient number of well-constructed barrels, or tanks of wood or iron, with hinged covers, in such positions as will least hinder the public travel thereon, and where the same will be easy of access. It shall be his duty to have each of said receptacles filled with water and kept filled at all times, and during the winter months he shall have the ice removed therefrom as often as necessary. He shall also procure and place on each of said receptacles a large iron bucket, the attachment to be made with an iron chain, detachable with check slip. Said buckets and receptacles shall be painted, with the words "City of Harrisburg" thereon, in large size letters, and shall be kept in good condition for immediate use at all times. 1 April, 1893. A, 301, §1.

**Tampering with water receptacles.**

3. Any person or persons tampering with, removing or injuring any of said buckets and receptacles, or using them otherwise than in case of fire, shall be liable to a fine of not less than five dollars, nor more than twenty dollars, recoverable with costs, together with judgment of imprisonment not exceeding twenty days, if the amount of said judgment and costs shall not be paid. Id., §2.

and straightening Paxton creek from its mouth to northern boundaries of the city; 3 Feb., 1872; 1, 527. Bonds to pay for straightening Paxton creek; 14 Dec., 1874; 3, 119. Straightening authorized; 4 Jan., 1875; 3, 120. Application to commissioners of Dauphin county for a bridge over Paxton creek at Mulberry street; 1 Nov., 1883; 3, 554. Obstructions and impediments to be

removed from Paxton creek; 29 Jan., 1892; A, 9. Appropriation of \$3,331.92 for repairing Mulberry street bridge; 29 March, 1901; C, 21. Res., 22 Dec., 1900. Repairing of Mulberry street bridge, appropriation for; 9 Jan., 1904; C, 723. Appropriation for repairs to State street bridge, crossing tracks of Pennsylvania Railroad; 25 Nov., 1904; D, 188.

## Bridge Companies.

Harrisburg Bridge Company, authorized to sell its bridge, 1.

Harrisburg Bridge Company, consent of stockholders to sell, how obtained, 2.

Harrisburg Bridge Company, consent of city or county to purchase, how obtained, 2.

Harrisburg Bridge Company, when act to take effect, 3.

People's Bridge Company, authorized to erect, &c., 4.

People's Bridge Company, city not responsible for damages, 5.

People's Bridge Company, city to have first option to purchase, 7.

People's Bridge Company, plans, &c., to be approved by city engineer, 6.

**Harrisburg Bridge Company authorized to sell its bridge.**

1. To promote the establishment and maintenance of a free bridge over the Susquehanna at Harrisburg, the said [Harrisburg Bridge] company is hereby authorized and empowered, at any time hereafter, to sell, assign, transfer and convey, unto the counties of Dauphin, Cumberland and York, or the City of Harrisburg, or any of them, for such price as may be agreed upon, the bridge, property and franchises of said company; and the said counties and city, or any of them, shall be and are hereby authorized and empowered to purchase the same, and maintain

the said bridge as an open, free and public bridge forever; *Provided*, That such counties or city, as shall become the purchaser of said bridge, shall be subject to the same duties and responsibilities, in keeping and maintaining the same in repair, and have the like powers as are prescribed by law, as to other public bridges within their limits, or spanning streams forming the boundaries of adjacent counties; *And provided, further*, That after such sale, the purchase money shall be distributed pro rata among the stockholders of said company; and thenceforth the said company, except for the purpose of making said distribution, and closing up their affairs, shall be dissolved, and cease to exist.<sup>1</sup> 20 Feb., 1867. P. L. 232, §4.

**Assent of stockholders; Assent of city or county.**

2. That before making said sale the assent thereto of stockholders, holding a majority of the shares of the stock of said company, shall be obtained, at a meeting to be convened and held, as prescribed in section three of this supplement; and before making said purchase, if said city shall be a purchaser or unite in the same, the assent of the mayor and common council shall be obtained; and before any of said counties shall become purchaser, or unite in the same, the approval of two grand juries, the court of quarter sessions and the county commissioners of said county or counties shall be given to said purchase.<sup>2</sup> *Id.*, §5.

**Act when effective.**

3. This act shall not take effect until the same shall have been approved and accepted by the said company, at a meeting of stockholders thereof, holding a majority of the stock of said company, convened for the purpose of considering the same; a certificate of which approval and acceptance, signed by the officers of said meeting of stockholders, shall be filed in the office of the secretary of the commonwealth.<sup>3</sup> *Id.*, §8.

**People's Bridge Company.**

4. That consent be and is hereby given to the People's Bridge Company, of Harrisburg, Pa., its successors and assigns, to erect and maintain an open, iron, toll bridge, with the piers, walls, approaches and all necessary appurtenances, across the Susquehanna river, upon the ground lying between the western line of Front street and low water mark of said river, at a point opposite the junction of Walnut and Front streets, and also to erect and maintain said bridge, piers, walls, approaches and necessary appurtenances in and across said river, and also upon the ground on Forster's (now Hargest's) island, which would be occupied by the opening and extension of Walnut street across said island. 26 March, 1889. 4, 284, §1.

<sup>1</sup> See "An act to enable the City of Harrisburg to establish and maintain a free bridge over the Susquehanna river." Approved 4 April, 1867. P. L. 745, now obsolete.

<sup>2</sup> At least three weeks' notice shall be given [of meeting of stockholders] by advertisement, in at least

two newspapers published in the city of Harrisburg. Act of 20 Feb., 1867. P. L. 232, §3.

<sup>3</sup> Act was approved and accepted by the company 20 March, 1867, and acceptance filed in the office of the Secretary of the Commonwealth 23 March, 1867.

**City not responsible for damages.**

5. The City of Harrisburg shall not be responsible to the owner of the aforesaid island for any damage which may be legally sustained, by reason of the occupancy of any portion thereof, in pursuance of this ordinance, and in case any such damage shall accrue as aforesaid to said owner, the same shall be paid by said company. Id., §2.

**Piers; Eastern approach.**

6. The piers, wing walls, approaches and other appurtenances at the eastern end of said bridge shall be constructed subject to the approval of the city engineer; *Provided*, That the said People's Bridge Company pave the eastern approach to said bridge from the eastern line of Front street, the width of Walnut street, to floor of bridge, with asphaltum sheet or block pavement, at the discretion of the highway commissioner. Id., §3.

**City to have first option.**

7. That if at any time the stockholders of said bridge company wish to sell the franchises of said company, then the said management of the bridge company shall so notify the council or councils of the City of Harrisburg that they (the City of Harrisburg) may have the preference to purchase the said franchise at a fair valuation, said valuation to be made by appraisement, and the appraisers to be appointed by the court of Dauphin county. Id., §4.

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**Building inspector, office of, established.**

1. That the office of building inspector is hereby established, and the mayor shall nominate, and by and with the advice and consent of the select council, appoint a suitable person to serve as building inspector,<sup>1</sup> who shall have served a regular apprenticeship to the house carpentering or bricklaying business, or as an architect, and afterwards been engaged for at least seven years in working in or carrying on such business, and the person so appointed shall not be engaged in any business during his official term, and shall have his office in the office occupied by the highway commissioner. 26 Jan., 1895. A, 638, §1.

**Term regulated.**

2. On and after the first Monday of January, 1895, the term of office of the building inspector shall be three years, and until his successor is appointed and qualified. Id., §2.

**Permit for building.**

3. When any person, persons or corporations shall be desirous of erecting, constructing or altering any building within the City of Harrisburg, he or they shall make application at the office of the inspector of buildings for a permit for that purpose, and shall be required to furnish to said inspector a written statement of the proposed location, the dimensions and manner of construction of the proposed building, and the materials to be used; and if the same appears to be conformable to the laws and ordinances of the city, he shall give to said applicant or applicants a permit for the erection of the same, for which he or they shall pay to the city treasurer the following:

For one lot.....	\$2 00
For two contiguous lots, owned by the same persons, where the services of the surveyor are performed at one time...	3 00
For any number of contiguous lots, exceeding two, and not exceeding one block.....	4 00
For marking party lines, not exceeding three hundred feet in length.....	2 00
For every hundred feet exceeding three hundred feet....	50
For marking street and avenue lines the same rates shall be charged as for party lines.	
For entry of each item of survey in the book of regulations	25
Id., §4.	

**Moneys to be paid to city treasurer; Permit to be issued by building inspector.**

4. All moneys payable for building permits shall be paid to the city treasurer upon the certificate of the building inspector, stating the amount of money required by law to be paid therefor. Said certificate shall be delivered to the city treasurer, who shall, upon receipt of the money stated therein, give a certificate of payment, stating the amount of money paid; said certificate of payment shall be presented to the building inspector, who thereupon shall issue his permit and retain the treasurer's certificate of payment as his voucher therefor. Id., §4.

<sup>1</sup> See 46, post.

**Name of owner to be certified to board of assessors.**

5. From and after the passage of this ordinance, it shall be the duty of the building inspector, within five days after the issuing by him of any permits for a new building, or any addition or improvement to a building, when a permit is required by law, to certify to the board of assessors the name of the owner of said building, addition or improvement and the location of the ground on which the same is to be erected, but not the value or estimated value thereof. Id., §5.

**Building inspector to give bond.**

6. The building inspector shall, before he enters upon the duties of his office, take and subscribe an oath before the mayor of the city, to faithfully and impartially execute the duties of his office, and see that all buildings erected in the city are built in accordance with the laws and ordinances relating thereto, and he shall give a bond in the sum of five thousand dollars, with two or more sufficient sureties, to be approved by councils, conditioned for the faithful performance of his duties. Id., §6.

**Office to be kept; Penalty for failing to inspect within 36 hours.**

7. The said inspector shall keep an office, where shall be filed all applications for permits, and where notices may be left, requiring him to visit and inspect any building in progress of erection or construction, and if said inspector shall fail or neglect to attend within thirty-six hours after notice is left for that purpose, he shall forfeit and pay the sum of twenty-five dollars for each and every duty he shall so fail or neglect to attend, beyond the thirty-six hours aforesaid; which penalty shall be recovered by suit in the name of the City of Harrisburg, for the use of the owner or owners, contractor or contractors, of said building. Id., §7.

**Duties of inspector; Scaffolding, &c.; Materials; Foundations; Certificate.**

8. It shall be the duty of every inspector appointed under the provisions of this ordinance to visit and inspect each or any house or houses, building or buildings, which may be in course of erection, construction or alteration, remodeling or repairing, within the limits of the city, and to see that such house or houses, building or buildings, are being erected, constructed or altered, remodeled or repaired, according to the provisions of this ordinance, and all acts and ordinances in force in said city. And it shall be the duty of the said inspector to inspect all scaffolding, supports, mortising, ladders, ropes, jacks, etc., thereby securing a better protection for the safety of workmen and labor employed or performed, and in the manner adapted for the security thereof against fires and the safety of the occupants; that the materials used are suitable for the purpose and that the work is done in a substantial and workmanlike manner and is of sufficient strength and solidity to answer the purpose for which it was designed: and before the foundations are laid he shall examine the trenches dug for the same and be fully satisfied that the soil or substratum is sufficient for the structure or at least the best that can be ob-

tained; and should the nature of the soil be such, and the work of sufficient magnitude as to require piling, flagging, or logging, the same shall be done; *Provided*, That it may be deemed necessary by the inspector; that his visits and inspections shall be repeated from time to time during the erection, construction or alteration of such house or houses, building or buildings, until all the walls shall have been completed and the same enclosed, when his duties shall terminate. He shall, on application for that purpose, furnish the owner or owners, contractor or contractors, his certificate that the said house or building is in all respects conformable to law and properly constructed. Id., §8.

**Buildings erected; Certificate; Penalty for false; Inspection.**

9. It shall not be lawful for any person or persons to erect, construct or build, or cause to be erected or built, any brick, iron, granite, marble or stone house, or building composed partly of brick, frame, iron, granite or stone, or to alter any such building, so as to make it substantially a new building, unless the same building shall have been inspected from time to time by the inspector of buildings, and a certificate furnished by him that the said house or building is properly constructed, and in all respects safe and secure. Any person who shall violate the provisions of this section by erecting any building without having the same inspected and built according to law and ordinance, shall forfeit and pay a penalty of not less than fifty nor more than one hundred dollars, and the further sum of ten dollars per day for each day the same shall be permitted to remain without being made to conform with the laws and ordinances of the city, and such building shall be a public nuisance. Should said inspector award such certificate to any person or persons for any house or building not constructed according to the provisions of this or any other law or ordinance, the bond given by said inspector shall be declared to be forfeited, and the whole principal sum therein named shall become due and payable, and such inspector shall be forthwith dismissed from office by councils and the vacancy thus created filled, and the said principal sum shall be collected by due process of law and the same held to the use of any person or persons, either in an individual or corporate capacity, who may be injured or sustain any damages thereby. Id., §9.

**Salary (\$1,200); Fees.**

10. The said inspector shall receive an annual salary of twelve hundred (1,200) dollars, which shall be in full for all services performed by him, and all fees received by him shall be paid to the city treasurer upon the first day of each month, at which time he shall make a statement of the amount so received, giving the date when and the name of the person from whom received, which statement shall be under oath administered by the mayor of the city. Id., § 10.

**Repeal.**

11. That any ordinance or part of ordinance conflicting with the provisions of this ordinance be and the same is hereby repealed so far as the same affects this ordinance. Id., §11.



**Cellar door, porches, steps.**

12. No cellar door, porch<sup>1</sup> or step shall project or be extended more than six feet from the line of the buildings into or over the pavement in Front, Market, Second and State streets, and along each side of Market Square; nor more than four feet three<sup>2</sup> inches in any of the other streets; nor more than three feet in Liberty alley and Meadow lane. No porch shall be constructed, post set up or tree planted along any of the alleys beyond the line of the lots; and no cellar door shall be constructed in any of the alleys which shall extend further into the alley than two feet eight inches from the line of the lot; and no step shall extend more than fifteen inches from the line of the lot and cellar doors erected or constructed in any of said alleys shall be on a grade with the pavement thereof, so as to occasion no obstruction to persons passing along said pavements. 29 July, 1862. 1, 57, §8.

**Porches and steps in certain highways.**

13. That no porch or step shall project or be extended more than thirty inches in any highway of this city along which the pavement, excluding the gutter, is more than five and less than seven feet wide, or in avenues or highways of less width than thirty-three feet. Any person who shall fail to comply with this regulation or shall violate the same shall, on conviction thereof before the mayor or any alderman of the city, be fined not exceeding fifty dollars; *Provided*, That the provisions of this ordinance shall not apply to porches and steps already erected. 10 June, 1887. 4, 150, §1.

**Spouting.**

14. That all buildings now erected or which may hereafter be erected on any street or avenue of this city, the owners thereof shall have placed proper spouting upon the fronts of said buildings.<sup>3</sup> 28 Oct., 1886. 4, 146, §1.

**Penalty.**

15. That any person violating the provisions of this ordinance shall pay, upon conviction thereof, into the city treasury, a fine of not more than ten dollars, to be collected as other fines are now by law recoverable. *Id.*, §3.

**Balcony.**

15a. No balcony or other like fixture with a roof over the same, shall be constructed, erected or built from the second story and upwards of any house, or other building, on any of the streets, lanes or alleys in the city, to project or extend beyond the line of the lot or lots upon which the same may be built or erected, under a penalty of one hundred dollars, to be recovered as other penalties are recoverable before the mayor or one of the aldermen, and shall be liable to have said balcony or other like fixture herein prohibited removed by order of the mayor. 15 July, 1862. 1, 57, §9.

<sup>1</sup> See 65; clause 10, post.

<sup>2</sup> Daniel T. Wilson was author-

ized to extend steps 4 feet 9 inches, by Res. 2 Oct., 1873. 3, 19.

<sup>3</sup> See 44, post.

**Bay windows.**

16. That no bulk, bay, jut or oriel window<sup>1</sup> projecting beyond the building line of any street, lane or avenue shall hereafter be erected by any person or persons, firm or corporation, upon the first story of any building. 2 Aug., 1897. B, 285, §1.

**Bay windows.**

17. Bulk, bay, jut or oriel windows may hereafter be erected upon the front, sides or rear ends of buildings extending over the pavement of any street, from any story of the building except the first story, within lines drawn from the intersection of the party or lot lines and the building lines at an angle of twenty degrees with the latter, and to a distance not exceeding two feet on any street. Id., §2.

**Bay windows.**

18. Whenever it shall come to the knowledge of the building inspector that any person or persons, firm or corporation are erecting or causing to be erected, or about to erect or cause to be erected, any bulk, bay, jut or oriel window contrary to the provisions hereinbefore recited, it shall be his duty to forthwith remove or cause to be removed the said bulk, bay, jut or oriel window about being erected or hereafter erected. Id., §3.

**Penalty.**

19. For every violation of the provisions of this ordinance the offender shall, upon conviction thereof, before the mayor or one of the aldermen, be fined a sum not exceeding fifty dollars, to be recovered as other penalties are recoverable. Id., §4.

**Repeal.**

20. All ordinances or parts of ordinances of the city inconsistent with the provisions of this ordinance be and the same are hereby repealed. Id., §5.

**Frame buildings within certain limits.**

21. That no frame or wooden buildings or parts thereof shall hereafter be built in the City of Harrisburg within the limits bounded by the low water mark of the Susquehanna river on the west, the line of the tracks of the Pennsylvania Railroad Company on the east, by the south side of Hamilton street on the north, and the north side of Vine street on the south; and that all parts of buildings, including porches and windows, shall be wholly outside the street lines, except as hereinafter provided. 27 Feb., 1904. C, 738, §1; as amended 24 July, 1906. D, 665, §1.

**Walls within limits incombustible.**

22. The walls of all buildings, within the limits prescribed in section 1, shall be constructed of stone, brick, iron or other hard incombustible material, and the several component parts of such buildings shall be as herein provided. 27 Feb., 1904. C, 738, §2.

**Building constructed must conform to ordinance.**

23. No wall, structure, building, or part thereof, shall hereafter

<sup>1</sup> See 47, post.

be built or constructed within said city, except in conformity with the provisions of this ordinance. No building already erected or hereafter to be built, in said city, shall be raised, altered or built upon, in any manner that would be in violation of any of the provisions of this ordinance. Id., §3.

**Excavations; Insecure walls; Retaining walls.**

24. All excavations shall be properly guarded and protected by the person or persons causing the excavations to be made, so as to prevent the same from becoming dangerous to life or limb, and shall be sheet-piled where necessary to prevent the adjoining earth from caving in. Whenever an excavation of either earth or rock for building or other purposes shall be intended to be, or shall be carried to the depth of more than eight feet below the street curb, the person or persons causing such excavations to be made, shall, at all times, from the commencement until the completion thereof, if afforded the necessary license to enter on the adjoining land, and not otherwise, at his or their expense, preserve any adjoining or contiguous wall or walls from injury, and support the same by proper foundations, so that the said wall or walls shall be and remain practically as safe as before such excavation was commenced, whether the said adjoining or contiguous wall or walls are down more or less than eight feet below the street curb. If such excavation shall not be intended to be, or shall not be, carried to a depth of more than eight feet below the street curb, the owner or owners of such adjoining or contiguous wall or walls shall preserve the same from injury, and so support the same by proper foundations that it or they shall be and remain practically as safe as before such excavation was commenced, and shall be permitted to enter upon the premises where such excavation is being made for that purpose, when necessary. In case an adjoining party wall is intended to be used by the person or persons causing the excavation to be made, and such party wall is in good condition and sufficient for the uses of the adjoining building, then, and in such case, the person or persons causing the excavation to be made shall, at his or their own expense, preserve such party wall from injury and support the same by proper foundations, so that said party wall shall be and remain practically as safe as before the excavation was commenced. If the person or persons whose duty it shall be to preserve or protect any wall or walls from injury shall neglect or fail so to do, after having had a notice of twenty-four hours from the building inspector, then the building inspector may enter upon the premises and employ such labor and furnish such materials, and take such steps as, in his judgment, may be necessary to make the same safe and secure, or to prevent the same from becoming unsafe or dangerous, at the expense of the person or persons whose duty it is to keep the same safe and secure. Any party doing the said work, or any part thereof, under and by direction of the said inspector, may bring and maintain an action against the person or persons last herein referred to, to recover the value of the work done and materials furnished, in and about the said premises, in

the same manner as if he had been employed to do the said work by the said person or persons. When an excavation is made on any lot, and it is intended to use part of such excavation, on either the side or the rear of the lot, as an area, or space for light and air, the person or persons causing such excavation to be made shall build at their own cost and expense, a retaining wall of sufficient strength to support the adjoining earth; and such retaining wall shall be carried to the height of the adjoining earth, and be properly protected or capped on top. Id., §4.

**Foundations; Cellars; Water not to accumulate in.**

25. Every building shall have foundations laid not less than three feet below the surface of the ground, on the solid earth or any level surface of rock and five feet upon piles or ranging timbers when solid earth or rock is not obtainable for foundations. When crib footings of iron or steel are used below the water level, the same shall be entirely coated with coal tar, paraffine, varnish or other suitable preparation before being placed in position. When footings of iron or steel for columns are placed below the water level, they shall be similarly coated for preservation against rust. Foundation walls shall be constructed to include all walls and piers built below the curb level or nearest tier of beams to the curb, to serve as supports for walls, piers, columns, girders, posts or beams. Foundation walls shall be built of stone or brick. If built of stone, they shall be at least eight inches thicker than the wall next above them to a depth of twelve feet below the curb level; and for every additional ten feet, or part thereof, deeper, they shall be increased four inches in thickness. The footing or base course shall be of stone or concrete, or both, or of concrete and stepped-up brick-work, or of sufficient thickness and area to safely bear the weight to be imposed thereon; if the footing or base course be of concrete, the concrete shall not be less than twelve inches thick; if of stone, the stones shall be not less than two by three feet, and at least eight inches in thickness for the walls, and at least twelve inches wider than the bottom width of said walls, and not less than ten inches in thickness, if under piers, columns, or posts, and at least twelve inches wider on all sides than the bottom width of said piers, columns or posts. All base stones shall be well bedded and laid crosswise, edge to edge. If stepped-up footings of brick are used in place of stone, above the concrete, the off-sets, if laid in single courses, shall each one not exceed one and one-half inches, or if laid in double courses shall not exceed three inches, starting with the brickwork covering the entire width of the concrete, so as to properly distribute the load to be imposed thereon. If, in place of a continuous foundation wall, isolated piers are built to support the superstructure, where the nature of the ground and the character of the building make it necessary, inverted arches shall be turned between the piers, at least twelve inches thick and of the full width of the piers, and resting upon a continuous bed of concrete of sufficient area, and at least eighteen inches thick; or two footing courses of the large

stone may be used, the bottom course to be laid crosswise, edge to edge, and the top course laid lengthwise, end to end; or one course of concrete and one course of stone. The stone shall not be less than ten inches thick, and the area of the lower course shall be equal to the area of the base course that would be required under a continuous wall, and the outside pier shall be secured to the second piers with suitable iron rods and plates. All stone walls twenty-four inches or less in thickness shall have at least one header extending through the wall in every one foot in height from the bottom of the wall, and in every six feet length, and if over twenty-four inches in thickness, shall have one header for every six superficial feet on both sides of the wall, laid on top of each other to bond together, and running into the wall at least two feet. All headers shall be at least eighteen inches in width and eight inches in thickness, and consist of good flat stones. No stone shall be laid in such walls in any other position than its natural bed. Before the walls of buildings are carried up above the foundation walls, the cellars shall be connected with the street sewers. Should there be no sewer in the street, or if the cellars are below water, or below the sewer level, the provision should be made by the owner to prevent water accumulating in the cellars to the injury of the foundations. Id., §5.

**Vaults under sidewalks; Open areas.**

26. In buildings where the space under the sidewalk is utilized, a sufficient stone or brick wall shall be built to retain the roadway of the street, and the side, end or party walls of such building shall extend under the sidewalk of sufficient thickness to such wall. The roofs of all vaults for the admission of coal or light shall be covered with glass to measure not more than four square inches each, set in iron frames or with iron covers having a rough surface, and rabbeted flush with the sidewalk. When areas are covered iron, or iron and glass combined, stone or other incombustible material shall be used, and sufficient strength in such covering shall be provided to insure safety to persons walking on the same, and to carry loads which may be placed thereon. Open areas shall be properly protected with suitable railings. Id., §6.

**Walls for dwellings and school houses; Joists; Rafters.**

27. Dwelling houses (with cellar not over eight feet in depth) not over thirty-five feet in height, and not over twenty feet in width, not more than forty-five feet in depth, shall have basement walls not less than twelve inches thick, if of brick. The first story shall not be less than twelve inches thick, and upper stories shall not be less than eight inches thick; but no party wall in any such building shall be less than nine inches thick. The walls of all dwelling houses, whether called tenement houses, apartment houses, flats, hotels or other buildings which are to be used for resident purposes, twenty-six feet or less in width between bearing walls, and also the walls of school houses, which are hereafter erected, or which may be altered to be used as herein specified, over thirty-five feet in height and not over fifty feet in height,

shall not be less than twelve inches thick above the foundation wall; but no wall shall be built having a twelve inch thick portion measuring vertically more than fifty feet. If over fifty feet in height and not over sixty feet in height, the walls shall not be less than twelve inches above the basement, if a high stoop house, and not less than sixteen inches thick in the first story, if not a high stoop house. If over sixty feet in height, and not over seventy-five feet in height, the walls shall not be less than sixteen inches thick to the height of twenty-five feet, or to the nearest tier of beams to that height, and from thence not less than twelve inches thick to the top. If over seventy-five feet in height, and not over eighty-five feet in height, the walls shall not be less than twenty inches thick to the height of twenty feet, or to the nearest tier of beams to that height, and from thence not less than sixteen inches thick to the height of sixty feet, or to the nearest tier of beams to that height, and from thence not less than twelve inches thick to the top. If over eighty-five feet in height, and not over one hundred feet in height, the walls shall not be less than twenty-four inches thick to the height of thirty-five feet, or to the nearest tier of beams to that height, thence not less than twenty inches thick to the height of seventy-five feet, or to the nearest tier of beams to that height, and from thence not less than sixteen inches thick to the top. If over one hundred feet in height, and not over one hundred and fifteen feet in height, the walls shall not be less than twenty-eight inches thick to the height of twenty-five feet, or to the nearest tier of beams to that height; thence not less than twenty-four inches thick to the height of fifty feet, or to the nearest tier of beams to that height; thence not less than twenty inches thick to the height of ninety feet, or to the nearest tier of beams to that height, and from thence not less than sixteen inches thick to the top. If over one hundred and fifteen feet in height, each additional twenty-five feet in height, or part thereof, next above the curb, shall be increased four inches in thickness, the upper one hundred and fifteen feet of wall remaining the same as specified for a wall of that height. All non-bearing walls or buildings hereinbefore in this section specified may be four inches less in thickness; *Provided, however,* That none are less than nine inches thick, except as hereinafter specified. Eight-inch brick partition walls may be built to support the beams in such buildings in which the distance between the walls is not over thirty-three feet; *Provided,* That no clear span is over twenty-six feet; but no such partition wall shall be built having an eight-inch thick portion measuring vertically more than thirty-five feet. This clause shall not be construed to prevent the use of iron girders and columns, or piers of masonry, for the support of the walls and ceilings over any room which has a clear span of more than twenty-six feet between walls. If the clear span is to be over twenty-six feet, then the bearing walls shall be increased four inches in thickness for every twelve and one-half feet or part thereof, that said span is over twenty-six feet. Whenever two or more dwelling

houses shall be constructed, not over twelve feet six inches in width, and not over fifty feet high, the alternate centre wall between any two such houses shall be of brick, not less than eight inches thick above the foundation wall; but no such wall shall have an eight-inch thick portion measuring vertically more than forty feet; and the end of the floor beams shall be so separated that four inches of brick work will be between the beams where they rest on the said center wall. In no case shall either end of a floor beam or beams rest on stud partitions. The floor joist, ceiling joist and rafters, on all dwellings, must rest on the outside walls or on any inside wall that has a foundation under it in the cellar, and in no dwelling that may be hereafter erected shall the ceiling joist or rafters rest on an inside partition, where it is possible to rest on the outside walls or outside studding, this to apply to frame dwellings, as well as brick dwellings. All dwelling houses sixteen feet or more must have not less than 2x10 floor joist set not over sixteen inches from center to center. Id., §7.

**Walls for Stores, Churches; Girders; Buttresses.**

28. The walls of warehouses, stores, factories and stables, twenty-five feet or less in width between walls or bearings, shall not be less than twelve inches thick to the height of forty feet. If over forty feet in height, and not over sixty feet in height, the walls shall be not less than sixteen inches thick to the height of forty feet, or to the nearest tier of beams to that height, and not less than twelve inches thick from thence to the top. If over sixty feet in height, and not over seventy-five feet in height, the walls shall not be less than twenty inches thick to the height of seventy-five feet, or to the nearest tier of beams to that height, and from thence not less than sixteen inches thick to the top. If over seventy-five feet in height and not over eighty-five feet in height, the walls shall not be less than twenty-four inches thick to the height of twenty feet, or to the nearest tier of beams to that height; thence not less than twenty inches thick to the height of sixty feet, or to the nearest tier of beams to that height, and thence not less than sixteen inches thick to the top. If over eighty-five feet in height, and not over one hundred feet in height, the walls shall not be less than twenty-eight inches thick to the height of twenty-five feet, or to the nearest tier of beams to that height; thence not less than twenty-four inches thick to the height of fifty feet, or to the nearest tier of beams to that height; thence not less than twenty inches thick to the height of seventy-five feet, or to the nearest tier of beams to that height, and thence not less than sixteen inches thick to the top. If over one hundred feet in height, each additional twenty-five feet in height, or part thereof, next above the curb, shall be increased four inches in thickness, the upper one hundred feet of wall remaining the same as specified for a wall of that height. If there is a clear span of twenty-five feet between walls, the bearing walls shall be four inches more in thickness than is in this section specified, for every twelve and one-half feet, or fraction thereof, that said walls are more than twenty-

five feet apart. All buildings, not excepting dwellings, that are over one hundred and five feet in depth, without a cross wall, or proper piers or buttresses, shall have the side bearing walls increased in thickness four inches more than is specified in the respective sections of this ordinance or part thereof, that the said buildings are over one hundred and five feet in depth. In all stores, warehouses and factories over twenty-five feet in width between walls in which there shall be brick partition walls, or girders, supported on iron or wooden columns, or piers of masonry, the partition walls or girders shall be so placed that the space between any partition walls or girders shall not exceed twenty-five feet, and the iron or wooden columns, or piers of masonry, and girders, shall be made of sufficient strength and size to bear safely the weight and any lateral strain to be imposed upon them. In case iron or wooden girders, supported by iron or wooden columns, or piers of masonry, are substituted in place of brick partition walls, the building shall not exceed ten thousand feet area on the ground floor, except in case of fireproof buildings, which may be constructed as hereinafter provided for in section twenty-three of this ordinance. In case the walls of any building are less than twenty-five feet apart, and less than forty feet in depth, or there are cross walls which intersect the wall, not more than forty feet distant or between the same, of piers or buttresses built into the walls, the interior walls may be reduced in thickness in just proportion to the number of cross walls, piers or buttresses, and their nearness to each other; *Provided, however,* That this clause shall not apply to walls below forty feet in height, and that no such wall shall be less than twelve inches thick at the top, and gradually increased in thickness by set-offs to the bottom; and the building inspector is hereby authorized and empowered to decide (except where herein otherwise provided for) how much the walls herein mentioned may be permitted to be reduced in thickness, according to the peculiar circumstances of each case, without endangering the strength and safety of the building. The walls of churches, theaters,<sup>1</sup> foundries, machine shops, car or stage-houses, armories, public markets not over two stories in height, and other buildings of a public character, shall in no case be less than is in this ordinance specified for warehouses; and said buildings shall have, in addition thereto, such piers or buttresses as, in the judgment of the building inspector, may be necessary to make a safe and substantial building. One-story structures, not exceeding a height of twelve feet, may be built with eight-inch walls when the bearing walls are not more than nineteen feet apart, and the length of the eight-inch bearing wall does not exceed forty-five feet. Curtain walls of brick, built in between iron or steel columns, and supported wholly or in part on iron or steel girders, shall not be less than twelve inches thick for fifty feet of the uppermost height thereof, or to the nearest tier of beams to that measurement,

1 See 51, post.



in any building so constructed, and every lower section of fifty feet, or to the nearest tier of beams to such vertical measurement, or part thereof, shall have a thickness of four inches more than is required for the section above it, down to the tier of beams nearest to the curb level; and thence downward the thickness of walls shall increase in the ratio prescribed in section thirteen of this ordinance for the thickness of foundation walls. Id., §8.

**Walls and piers, how built; Ashlar stone; Linings; Wall ties.**

29. In all walls the same amount of material may be used in piers or buttresses. Curtain walls may be made four inches less in thickness than is specified respectively for walls of dwellings, and buildings other than dwellings. If any horizontal section through any part of any bearing wall in any building shows more than twenty-five per centum area of flues and openings, the said wall shall be increased four inches in thickness for every ten per centum, or fraction thereof, or flue or opening area in excess of twenty-five per centum. All piers shall be built of stone or good, hard, well-burnt brick, laid in cement mortar. Every pier built of brick, containing less than nine superficial feet at the base, supporting any beam, girder, arch or column on which a wall rests, or lintel spanning an opening over ten feet and supporting a wall, shall at intervals of not over thirty inches apart in height have built into it a bond stone not less than four inches thick, or a cast-iron plate of sufficient strength, and the full size of the piers. Isolated brick piers shall not exceed in height eight times their least dimensions. Stone piers or posts for the support of posts or columns above shall not be used in the interior of any building. When walls or piers are built of coursed stone, with dressed level beds and vertical joints, the building inspector shall have the right to allow such walls or piers to be built of a less thickness than specified for brick work, but in no case shall said walls or piers be less than three-quarters of the thickness provided for brick work. In all brick walls every sixth course shall be a heading course, except where walls are faced with brick in running bond, in which latter case every sixth course shall be bonded by the use of metal ties behind the same, or by splitting the face brick in half and backing the same with a continuous row of headers. All stone used for the facing of any building, and known as ashlar, shall not be less than four inches thick. Stone ashlar shall be anchored to the backing and the backing shall be of such thickness as to make the walls (independent of the ashlar) to conform to the thickness required by sections fifteen and sixteen of this ordinance. Iron ashlar plates used in imitation of stone ashlar on the face of a wall shall be backed up with the same thickness of brick work as stone ashlar. Walls heretofore built for or used as party walls, whose thickness at the time of their erection was in accordance with the requirements of the then existing laws, but which are not in accordance with the requirements of this ordinance, may be used if in good condition for the ordinary use of party walls, provided the height of the same be not increased. In

case it is desired to increase the height of existing party or independent walls, which walls are less in thickness than required under this ordinance, the same shall be done by a lining of brick work to form a combined thickness with the old wall of not less than four inches more than the thickness required for a new wall corresponding with the total height of the wall when so increased in height. The said lining shall be supported on proper foundations and carried up to such height as the building inspector may require. No lining shall be less than eight inches in thickness, and all lining shall be laid up in cement mortar and thoroughly anchored to the old brick walls with suitable wrought iron anchors, placed two feet apart and properly fastened or driven into the walls in rows alternating vertically and horizontally with each other, the old wall being first cleaned of plaster or other coatings where any lining is to be built against the same. In no case shall any wall or walls of any building be carried up more than two stories in advance of any other wall, except by permission of the building inspector. The front, rear, side and party walls shall be properly bonded together, or anchored to each other every six feet in their height by wrought iron tie anchors, not less than one and one-half inches by three-eighths of an inch in size, and not less than twenty-four inches long. The walls of every building, during the erection or alteration thereof, shall be strongly braced from the beams of each story, and when required, shall also be braced from the outside, until the building is inclosed. The roof tier of wooden beams shall be safely anchored, with plank or joist, to the beams of the story below, until the building is inclosed. Id., §9.

**Mortar, quality of; Furred or studded walls; Recesses; Chases; Concrete; Bricks, when to be wet; Sand.**

30. The walls of all buildings below the curb level, or the first tier of floor beams nearest thereto, shall be laid in mortar composed of one part cement and three parts lime and sharp sand, and the backing up of all stone ashlar shall be laid up with cement mortar, or cement mortar and lime mortar mixed, but this shall not prohibit the pargeting of the back of the ashlar with lime mortar. All other walls built of brick or stone shall be laid in lime or cement mortar, or lime and cement mortar mixed. In all walls that are built hollow, the same quantity of stone or brick shall be used in their construction as if they were built solid, as in this ordinance provided, and no hollow wall shall be built unless the parts of same are connected by proper ties, either of brick, stone or iron, placed not over twenty-four inches apart. The inside four inches of all walls may be built of hard burnt hollow clay or porous terra cotta blocks, properly tied and bonded into the wall, and of the dimensions of ordinary bricks. All exterior and division or party walls over fifteen feet high, excepting where such walls are to be finished with cornices, gutters or crown moldings, shall have parapet walls carried two feet above the roof, and shall be coped with stone, well burnt terra cotta, cast iron, galvanized

iron or tin. Recesses for stairways or elevators may be left in the foundation or cellar walls of all buildings, but in no case shall the walls be of less thickness than the walls of the third story, unless reinforced by additional piers, with iron girders or iron columns and girders, securely anchored to walls on each side of recess. No chase for water or other pipes shall be made in any nine-inch wall more than four inches in depth, nor in any other wall more than one-third of its thickness, and the chases around said pipe or pipes shall be filled with solid masonry for the space of one foot at the top and bottom of each story. Recesses for alcoves and similar purposes shall in no case have less than eight inches of brick work at the back of such recesses, and provided that such recesses shall not be more than eight feet in width, and shall be arched over and not carried up higher than eighteen inches below the bottom of the beams of the floor next above. The aggregate area of recess in any wall shall not exceed one-fourth of the whole area of the face of the wall of any story, nor shall any such recess be made within a distance of four feet from any other one in the same wall. In all furred or studded walls the course of brick above the under side and below the top of each tier or floor beam shall project the thickness of the furring or studs, to more effectually prevent the spread of fire. The walls and piers of all buildings shall be properly bonded and solidly put together with close joints filled with mortar. They shall be built to a line and carried up plumb and straight. The walls of each story shall be built up to the full thickness to the top of the beams above. All brick laid in non-freezing weather shall be well wet immediately before being laid. Walls or piers, or parts of walls or piers, if frozen, shall not be built upon. The brick used in all buildings shall be good, hard, well burnt brick. Salmon brick shall not be used below five feet above the grade line. The sand used for mortar in all buildings shall be clean, sharp sand, and shall not be finer than the standard samples kept in the office of the building inspector. Cement mortar shall be made of sand and cement in the proportion of not more than three parts of sand to one part of cement, and shall be used immediately after being mixed. Lime mortar shall be made of not more than four parts of sand to one part of lime, and shall not be used until thoroughly slacked. Cement and lime mortar shall be made of one part of lime, one part of cement and three parts of sand to each. Concrete for foundations shall be made of one part of cement, two parts of sand and five parts of small, clean, broken stone, or one-half of the five parts may be clean gravel and the other half small, clean broken stone, all carefully mixed. Id., §10.

**Hotels, dwellings, how to be constructed; Stairs; Wood ceilings; Wainscoting; Iron doors; Over five stories.**

31. Every building hereafter altered to be occupied as a hotel, and every building hereafter erected or altered to be occupied as a lodging house, and every tenement house, apartment house, and dwelling house five stories in height, or having a basement and

four stories in height above a cellar, hereafter erected or altered to be occupied by one or more families on any floor above the first, shall have the first floor above the cellar or lower story constructed fireproof with iron or steel beams and terra cotta or concrete construction. The stairs from the cellar or lowest story to the fireproof floor above, when placed within any such building, shall be inclosed with brick walls. The opening through the brick wall of such inclosure into the lowest story shall have an iron door, and shall be self-closing. Every such building exceeding five stories in height or having a basement and five stories in height above a cellar, shall be constructed as in this section before described, and shall also have the halls and stairs inclosed with twelve-inch brick walls. Eight-inch brick walls not exceeding fifty feet in their vertical measurement may inclose said halls and stairs, and be used as bearing walls where the distance between the outside bearing walls does not exceed thirty-three feet and the area between the said brick enclosure walls does not exceed two hundred superficial feet. The floors, stairs and ceilings in said halls and stairways shall be made of iron, brick, stone or other hard, incombustible materials, excepting that the flooring and sleepers underneath the same may be of wood and the treads and hand rails of the stairs may be of hard wood, provided that where wooden treads are used the under side of the stairs shall be entirely lathed with iron or wire lath and plastered thereon, or covered with metal. At least one flight of such stairs in each of said buildings shall extend to the roof, and be inclosed in a bulkhead built of fireproof materials. When the said halls and stairways are centrally in the building and back from the street, brick walls shall be provided on the first story and extend to the street. In every building hereafter erected, all the walls or partitions forming interior light or vent shafts shall be built of brick, or such other fireproof materials as may be approved by the building inspector. The walls of all light or vent shafts, whether interior or exterior, hereafter erected, shall be carried up not less than three feet above the level of the roof. Eight-inch brick and six-inch and four-inch hollow tile partition walls of hard burned clay or porous terra cotta, may be built, not exceeding in their vertical portion a measurement of fifty, thirty-six and twenty-four feet respectively, and in their horizontal measurement a length not exceeding seventy-five feet, unless strengthened by proper cross walls, piers or buttresses bonded into same. All such walls shall be carried on proper foundations, or on iron girders, or on girders and columns or piers of masonry. One line of fore and aft partitions in the cellar or lowest story, supporting stud partitions above, in all buildings over eighteen feet between bearing walls in the cellar or lowest story, hereafter erected, shall be constructed of brick, not less than eight inches thick, or piers of brick with openings arched over below the underneath of the first tier of beams, or piers of brick, or iron columns, with wooden girders when the first tier of floor beams are of wood, or iron or steel girders when the

first beams are of iron or steel, rolled iron or steel beams of sufficient strength to span the entire width for the first tier of beams may be used, and the stairs shall be inclosed by a suitable brick wall carried up to the top of the tier of beams nearest the curb line. Fore and aft partitions that rest directly over each shall run through the wooden floor beam and rest on the plate of the partition below, and shall have the studding filled in solid between the uprights to the depth of the floor beams with brick laid in mortar or other suitable incombustible materials. All girders supporting the first tier of wooden beams in buildings shall be supported by brick piers, or iron, locust or other suitable hard wood, posts, of sufficient strength on proper foundations. The ceiling over every cellar or lowest floor in dwelling houses more than three stories in height, when the beams are of wood, shall be lathed with metal lath and plastered thereon with two coats of brown mortar of good materials. When wood wainscoting is used, in any building hereafter erected, the surface of the wall or partition behind such wainscoting shall be plastered down to the floor line, and any intervening space between the said plastering and wainscoting shall be filled in solid with incombustible material. Id., §11.

**Doors and windows; Lintels.**

32. Openings for doors and windows in all buildings, except as otherwise provided, shall have good and sufficient arches of stone, brick or terra cotta, well built and keyed with good and sufficient abutments, or lintels of stone as follows: For an opening not more than four feet in width, the lintel shall not be less than ten inches in height, and for an opening not more than six feet in width, the lintel shall not be less than fifteen inches in height; and for an opening exceeding six feet in width and not more than eight feet in width, the lintel shall be the full thickness of the wall to be supported, and not less than thirty inches in height. Every stone lintel over such opening six feet or less in width, in all walls, shall not be less than four inches thick, and shall have a bearing at each end of not less than five inches on the wall. On the inside of all openings in which the stone lintel shall be less than the thickness of the wall to be supported, there shall be a good timber lintel on the inside of the stone lintel, which shall rest at each end not less than three inches on any wall, and shall be chamfered at each end, and shall have a double row lock or bonded arch turned over the timber lintel. Or the inside lintel may be of cast iron, and in that case stone blocks or cast iron plates shall not be required at the ends where the lintel rests on the walls, provided the opening is not more than six feet in width. Id., §12.

**Height of walls, how measured; Width of building.**

33. The height of all walls shall be measured from the curb level at the center of the building to the top of the highest point of the roof beams in the case of flat roofs, and for high pitched roofs the average of the height of the gable shall be taken as the highest point of the wall. In case the wall is carried on iron

girders or iron girders and columns, or piers of masonry, the measurement as to height may be taken from the top of such girder. When the walls of a structure do not adjoin the street, then the average level for the ground adjoining the walls may be taken instead of the street curb level for the height of such structure. The width of buildings, for the purposes of this ordinance, shall be determined by the way the beams are placed. The lengthwise of the beams may be considered and taken to be the width-wise of the building, and the bearing walls are those walls on which the beams or trusses rest. Id., §13.

**Strength of floors; Weight to be placed thereon; Columns; •Notice.**

34. In every building used as a dwelling house or hotel, each floor shall be of sufficient strength in all of its parts to bear safely upon every superficial foot of its surface seventy pounds; and if to be used for office purposes, not less than one hundred pounds upon every superficial foot; if to be used as a store, factory, warehouse, or for any other manufacturing or commercial purpose, one hundred and fifty pounds and upwards upon every superficial foot. Every floor shall be of sufficient strength to bear safely the weight to be imposed thereon in addition to the weight of the materials of which the floor is composed. The roof of all buildings shall be proportioned to bear safely fifty pounds upon every superficial foot of their surface in addition to the weight of the material composing the same. Every column, post or other vertical support shall be of sufficient strength to bear safely the weight of the portion of each and every floor depending upon it for support in addition to the weight required as before stated to be supported safely upon said portions of said floors. The dimensions of each piece or combination of materials required shall be ascertained by computation, according to the rules given in Haswell's *Mechanics' and Engineers' Pocket Book*, except as may be otherwise provided for in this ordinance. The strength of all columns and posts shall be computed according to Gordon's formula, and the crushing weights in pounds, to the square inch of section, for the following named materials, shall be taken as co-efficients in said formula, namely: Cast-iron, eighty thousand; wrought or rolled iron, forty thousand; rolled steel, forty-eight thousand; American oak, six thousand. The breaking strength of wooden beams and girders shall be computed according to the formula in which the constants for traverse strains for central loads shall be as follows, namely: Hemlock, four hundred; white pine, four hundred and fifty; spruce, four hundred and fifty; pitch or Georgia pine, and American oak, five hundred and fifty; and for wooden beams and girders carrying a uniformly distributed load the constants will be double. The factors of safety shall be as one to four for all beams, girders and other pieces, subject to a traverse strain; and as one to four for all posts, columns and other vertical supports, when of wrought iron or rolled steel, and as one to five for other materials, subject to a comprehensive strain; and as one to six for tie-rods, tie-beams and other pieces subject to a tensile

strain. Good, solid natural earth shall be deemed to safely sustain a load of four tons to the superficial foot or as otherwise determined by the building inspector, and the width of the footing courses shall be at least sufficient to meet this requirement. In computing the weight of walls, a cubic foot of brick shall be deemed to weigh one hundred and fifteen pounds. Sandstone, white marble, granite and other kinds of building stone shall be deemed to weigh one hundred and sixty pounds per cubic foot. The safe-bearing load to apply to good brick work shall be taken at eight tons per superficial foot, when good lime mortar is used; eleven and one-half tons per superficial foot when good lime and cement mortar mixed is used; and fifteen tons per superficial foot when good cement mortar is used. The safe-bearing load to apply to good concrete shall be taken at eleven tons per superficial foot. Every temporary support placed under any structure, wall, girder or beam, during the erection, finishing, alteration or repairing of any building or structure, or any part thereof, shall be of sufficient strength to safely carry the load to be placed thereon. In all warehouses, storehouses, factories, workshops and stores where heavy materials are kept or stored, or machinery introduced, the weight that each floor will safely sustain upon each superficial foot thereof, shall be estimated by the owner or occupant or by a competent person employed by the owner or occupant. Before any building hereafter erected is occupied and used, in whole or in part, for any of the purposes aforesaid, and before any building, erected prior to the passage of this ordinance, but not at such time occupied for the aforesaid purposes, is occupied or used, in whole or in part, for any of said purposes, the weight that each floor will safely sustain upon each superficial foot thereof, shall be ascertained and posted in a conspicuous place on each story of the building to which it relates. The weight placed on any of the floors shall be safely distributed thereon, and the building inspector may require the owner or occupant of any building, or any portion thereof, to redistribute the load on any floor, or to lighten such load, as he may direct, where he may deem the same to be necessary for the protection of life and property. No person shall place or cause or permit to be placed on any floor of any building any greater load than the safe load thereof, as correctly estimated and ascertained as herein provided. If the building inspector shall have cause to doubt the correctness of said estimate, he is empowered to revise and correct the same, and for the purpose of such revision the officers and employes of said department of buildings may enter any building and remove so much of any floor or other portion thereof as may be required to make necessary measurements and examinations, and any expense necessarily incurred in removing any floor or other portion of any building for the purpose of making any examination herein provided for shall be paid by the city treasurer upon the requisition of the building inspector, out of the fund paid over to him under the provisions of this ordinance. Such expenses shall be a charge

against the person or persons by whom or on whose behalf said estimate was made, and shall be collected in an action to be brought in the name of the city, against said person or persons, and the sum so collected shall be paid over to the said city treasurer to be deposited in said fund in reimbursement of the amount paid as aforesaid. Id., §14.

**Hotels, hospitals, etc., to be built of fireproof materials.**

35. Every building hereafter erected to be used as a hotel or a school house, the height of which exceeds sixty feet, and every building hereafter erected or altered to be used as a hospital, asylum, or institution for the treatment of persons, the height of which exceeds forty-five feet, and every other building, the height of which exceeds seventy-five feet, except grain elevators and buildings for which specifications and plans have been heretofore submitted to and approved by the proper authorities, shall be built fireproof; that is to say, that they shall be constructed with walls of brick, stone, iron, or other hard, incombustible material, in which wooden beams or lintels shall not be placed, and in which the floors and roofs shall be of materials similar to the walls. The staircase landings shall be built entirely of brick, stone, iron or other hard, incombustible materials. No wood work or other inflammable material shall be used in any such partitions, furrings, or ceilings in any such fireproof building, excepting, however, that the doors and windows, and their frames, the trims, the casings, the interior finish when filled solid at the back with the fireproof material, and the floor boards and sleepers directly thereunder, may be of wood. In all fireproof buildings the following rules shall be observed:

**Rules governing the erection of fireproof buildings; Beams.**

Clause 1. All cast-iron, wrought-iron or rolled steel columns shall be made true and smooth at both ends and shall rest on iron or steel plates, and have iron or steel cap plates, which shall also be made true. All iron or steel trimmer beams, headers and tail beams shall be suitably framed and connected together, and the iron girders, columns, beams, trusses and all other iron work of all floors and roofs shall be strapped, bolted, anchored and connected together and to the walls, in a strong and substantial manner. Where beams are framed into headers, the angle irons which are bolted to the tail beams shall have at least two bolts for all beams over seven inches in depth, and three bolts for all beams twelve inches and over in depth, and these bolts shall not be less than three-quarters of an inch in diameter. Each one of such angles or knees, when bolted to girders, shall have the same number of bolts as stated for the other leg. The angle in no case shall be less in thickness than the header or trimmer to which it is bolted; and the width of angle in no case shall be less than one third of the depth of beam, excepting that no angle knee shall be less than two-and-a-half inches wide, nor required to be more than six inches wide. All wrought-iron or rolled steel beams eight inches deep and under shall have a bearing of ten inches, and all



beams more than twelve inches in depth shall have bearings of not less than twelve inches if resting on a wall. Where beams rest on iron supports, and are properly tied to the same, no greater bearings shall be required than one-third of the depth of the beams. Iron or steel floor beams shall be so arranged as to spacing and length of beams that the load to be supported by them, together with the weights of the materials used in the construction of the said floors shall not cause a deflection of the said beams of more than one-sixtieth of an inch per linear foot of span; and they shall be tied together at intervals of not more than eight times the depth of the beam.

**Templates.**

Clause 2. Under the ends of all iron or steel beams where they rest on the walls, a stone or cast-iron template shall be built into the walls. Said template shall be eight inches wide, in twelve-inch walls, and in all walls of greater thickness, said template shall be twelve inches wide, and such templates, if of stone, shall not be in any case less than five inches in thickness, and no template shall be less than twelve inches long.

**Arches.**

Clause 3. All brick or stone arches placed between iron or steel floor beams shall be at least four inches thick, and have a rise of at least one and a quarter inches to each foot of span between the beams. Arches of over five feet span shall be properly increased in thickness, as required by the building inspector, or the space between the beams may be filled in with sectional hollow brick of hard burned clay, porous terra cotta, or some equally good fireproof material, having a depth of not less than one and one-quarter inches to each foot of span, a variable distance being allowed of not over six inches in the span between the beams. The said brick arches shall be laid to a line on the centers with close joints, and the bricks shall be well wet, and the joints filled with cement mortar in proportions of not more than two of sand and one of cement by measure. The arches shall be well grouted and pinned or clinked with slate, and keyed. The bottom flanges of all wrought-iron or rolled steel floor beams, and all exposed portions of such beams below the abutments of the floor arch shall be entirely encased with hard burned clay or porous terra cotta, or with wire metal lath properly secured and plastered on the under side. The exposed sides and bottom plates or flanges of wrought-iron or rolled steel girders supporting iron, steel or wooden floor beams, or supporting floor arches, shall be entirely encased in the same manner. Id., §15.

**Lintels, columns and posts; Curtain walls, etc.**

36. All iron or steel or steel lintels shall have bearings proportionate to the weight to be imposed thereon, but no lintel used to span any opening more than ten feet in width shall have a bearing less than twelve inches at each end, if resting on a wall, but if resting on an iron post, such lintel shall have a bearing of at least six inches at each end, [sic] by the thickness of the wall to be

supported. If the posts are to be party posts in front of a party wall, and are not to be used for two buildings, then the said posts shall not be less than sixteen inches on the face by the thickness of the wall above, and if the party wall be more than sixteen inches thick, then the post shall be the thickness of the wall on the face. Intermediate posts may be used, which shall be sufficiently strong, and the lintels thereon shall have sufficient bearings to carry the weight above with safety. When the lintels or girders are supported at the ends of brick walls or piers they shall rest upon cut granite or blue stone blocks at least twelve inches thick, or upon cast-iron plate of equal strength by the full size of the bearings. In case the opening is less than twelve feet, the stone blocks may be six inches in thickness, or cast-iron plates of equal strength by the full size of the bearings may be used. This requirement shall not apply to the cast-iron lintels used at the back of stone lintels over openings not exceeding six feet in width. In all cases where the girder carries a wall and rests on brick piers or walls, the bearings shall be sufficient to support the weight above with safety. No cast-iron lintel or beam shall be less than three-quarters of an inch in thickness in any of its parts. Iron beams or girders used to span openings more than sixteen feet in width, upon which walls rest or upon which floor beams are carried, shall be of wrought-iron or rolled steel, and of sufficient strength. All lintels or girders placed over any opening in the front, rear or side of a building, or returned over a corner opening, when supported by brick or stone piers or iron columns, shall be of iron or steel and of the full breadth of the wall supported. In all buildings hereafter erected or altered, where any iron or steel column or columns are used to support a wall or part thereof, whether the same be an exterior or an interior wall, excepting a wall fronting on a street, and columns located below the level of the sidewalk which are used to support exterior walls or arches over vaults, the said column or columns shall be either constructed double, that is, an outer and an inner column alone to be of sufficient strength to sustain safely the weight to be imposed thereon, or such other iron or steel column of sufficient strength and so constructed as to secure resistance to fire, may be used as may be approved by the building inspector. Iron posts in front of party walls shall be filled up solid with masonry and made perfectly tight between the post and walls to prevent effectually the passage of smoke or fire. Cast-iron posts or columns which are to be used for the support of wooden or iron girders or brick walls, not cast with one span side or back, before being set up in place, shall have a three-eighths of an inch hole drilled in the face of each post or column, by the manufacturer or contractor furnishing the same, to exhibit the thickness of the castings; and any other similar sized hole or holes which the building inspector, or his duly authorized representatives, may require shall be drilled in the said posts or columns cast with one or more open sides and backs shall have solid iron plates on top of each to prevent the passage of

smoke or fire through them from one story to another, excepting where pierced for the passage of pipes. No cast-iron post or column shall be used in any building of a less average thickness of shaft than three-quarters of an inch, nor shall it have an unsupported length of more than twenty times its least lateral dimensions or diameter. No wrought-iron or rolled steel column shall have an unsupported length of more than thirty times its least lateral dimension or diameter, nor shall its metal be less than one-fourth of an inch in thickness. All cast-iron, wrought-iron and steel columns shall have their bearings faced smooth, and at right angles to the axis of the column; and when one column rests upon another column, they shall be securely bolted together. Where columns are used to support iron or steel girders carrying curtain walls, the said columns shall be of cast-iron, wrought-iron or rolled steel, and their exposed outer and inner surfaces be constructed to resist fire by having a casing of brick work not less than four inches in thickness and bonded into the brick work of the curtain walls, or the inside surface of the said columns may be covered with an outer shell of iron having an air space between; and the exposed sides of the iron or steel girders shall also be similarly covered in and tied and bonded. When the thickness of the curtain walls is twelve inches, the girders for the support of same shall be placed at the floor line of each story, commencing at the line where the thickness of twelve inches starts from, and when the thickness of such walls is sixteen inches the girders shall be placed not farther apart than every other story, at the floor line commencing at the line where the thickness of sixteen inches starts from, provided that at the intermediate floor line a suitable tie of iron or steel shall rigidly connect the columns together horizontally; and that the ends of the floor beams do not rest upon the said sixteen-inch walls. When the curtain walls are twenty inches or more in thickness and rest directly on the foundation walls, the ends of the floor beams may be placed directly thereon, but at or near the floor line of each story ties of iron or steel incased in the brick work shall rigidly connect the columns together horizontally. The iron arches, or the usual light castings connecting the columns of an iron front of a building, shall be filled in from the soffits to the sills on each upper story with brick work not less than eight inches thick, or hollow burnt clay blocks not less than eight inches thick and carried through the open back columns to the same upper level, the brick work or blocks to rest on the plates within the columns. Id., §16.

**Girders, lintels, etc., to be inspected; Iron and steel work to be painted.**

37. Rolled iron or steel beam girders, or riveted iron or steel plate girders used as lintels or as girders, carrying a wall or floor or both, shall be so proportioned that the loads which may come upon them shall not produce strains in tension or compression upon the flanges of more than twelve thousand pounds for iron, nor more than fifteen thousand pounds for steel per square inch

of the gross section of each of such flanges, nor a shearing strain upon the web-plate of more than six thousand pounds per square inch of section of such web-plate, if of iron, not more than seven thousand pounds if of steel; but no web-plate shall be less than one-quarter of an inch in thickness. Rivets in plate girders shall not be less than five-eighths of an inch in diameter, and shall not be spaced more than six inches apart in any case. They shall be so spaced that their shearing strains shall not exceed nine thousand pounds per square inch of section, nor their bearing exceed fifteen thousand pounds per square inch, on their diameter, multiplied by the thickness of the plates through which they pass. The riveted plate girders shall be proportioned upon the supposition that the bending or chord strains are resisted entirely by the web-plate. No part of the web shall be estimated as flange area, nor more than one-half of that portion of the angle iron which lies against the web. The distance between the centers of gravity of the flange areas will be considered as the effective depth of the girder. Before any girder, as before mentioned, to be used in any building shall be so used, the architect or the manufacturer of, or contractor for it shall, if required so to do by the building inspector, submit for his examination and approval a diagram showing the loads to be carried by said girder, and the strain produced by such load, and also showing the dimensions of the materials of which said girder is to be constructed to provide for the said strains; and the manufacturer or contractor shall cause to be marked upon said girder, in a conspicuous place, the weight said girder will sustain, and no greater weight than that marked on such girder shall be placed thereon. Before any iron or steel beam, lintel or girder intended to span an opening over ten feet in length in any building, shall be used for supporting a wall, the manufacturer or founder thereof, or the owner of said building, shall have said beam, lintel or girder inspected, and if required by the building inspector, shall have the same tested by actual weight or pressure thereon, under the direction and supervision of an inspector authorized by the building inspector. Said manufacturer, founder or owner shall notify the building inspector, in writing, of the time when, and the place where said inspection and test may be made, and said inspector shall cause the weight which each said beams, lintels or girders will safely sustain, to be properly stamped or marked in a conspicuous place thereon, and no greater weight shall be put or placed upon any beam, lintel or girder than that stamped or marked thereon by said inspector. The deflection of a cast-iron beam, lintel or girder, under an applied test of double the weight to be carried, shall not exceed one-fiftieth of an inch to the foot span, and said beam, lintel or girder shall return to its original shape after the test. In case any iron or steel beam, girder or lintel, or any iron or steel column, shall be rejected by said inspector as unfit to be used for the purpose proposed, the same shall not be used for such purpose, in or upon or about any building or part thereof. All iron work or steel

work used in any building shall be of the best material and made in the best manner, and properly painted with oxide of iron and linseed oil paint before being placed in position, or coated with some other equally good preparation, or suitably treated for preservation against rust. Id., §17.

**Beams or floor joists; Wooden beams to be trimmed from flues; Piers and walls; Wooden materials to be solid.**

38. All wooden beams or other timbers in the party wall of every building built of stone, brick or iron, shall be separated from the beam or timber entering in the opposite side of the wall by at least four inches of solid mason work. No wooden floor beams nor wooden roof beams used in any building, exceeding three stories in height, hereafter shall be of a less thickness than three inches. All wooden trimmer and header beams shall not be less than one inch thicker than the floor or roof beams on the same tier, where the header is four feet in length; and where the header is more than four feet and not more than fifteen feet in length, the trimmer and header beams shall be at least double the thickness of the floor or roof beams, or shall each be made of two beams forming such thickness properly spiked or bolted together, and when the header is more than fifteen feet in length wrought-iron flitch plates of proper thickness and depth shall be placed between two wooden beams, suitably bolted together to and through the iron plates in constructing the trimmer and header beams; or wrought-iron or rolled steel beams of sufficient length may be used. Every wooden beam, except header and tail beams, shall rest at one end four inches in the wall, or upon a girder as authorized by this ordinance. All wooden floor and wooden roof beams shall be properly bridged with cross-bridging and the distance between bridging and walls shall not exceed eight feet. Every wooden header or trimmer more than four feet long, used in any building shall be hung in stirrup-irons of suitable thickness for the size of the timber. No timber shall be used in any wall of any building where stone, brick or iron is commonly used, except lintels, as hereinbefore provided. The ends of all wooden floor and roof beams, where they rest on brick walls, shall be cut to a bevel of three inches on their depth, so that in case of fire they may fall without injury to the walls. All wooden beams shall be trimmed away from the flues, whether the same be a smoke, air or any other flue, the trimmer beam to be eight inches from the inside face of a flue in a straight way, and four inches from the outside of a chimney breast, and the header two inches from the outside face of the flue. All fire-places<sup>1</sup> shall have trimmer arches to support hearths, and the said arches shall be at least sixteen inches in width measured from the face of the chimney breast, and at least one foot longer on each side than the width of the fire-place opening, and they shall be constructed of brick, stone or burnt clay. Wooden centering under trimmer arches shall be removed before plastering the ceiling underneath. Each tier of beams shall

<sup>1</sup> See 39, post.

be anchored to the side, front, rear or party walls at intervals of not more than six feet apart, with good, strong wrought-iron anchors of not less than one and a half inches by three-eighths of an inch in size well fastened to the side of the beams by two or more nails made of wrought-iron at least one-fourth of an inch in diameter. The ends of beams resting upon girders shall be butted together, end to end, and strapped by wrought-iron straps of the same size and distance apart, and in the same beam as the wall anchors, and shall be fastened in the same manner as said wall anchors, or they may lap each other at least twelve inches and be well spiked or bolted together where lapped. Where beams are supported by girders, the girders shall be anchored to the walls and fastened to each other by suitable iron straps. Every pier and wall, front or rear, shall be well anchored to the beams of each story, with the same size anchors as are required for side-walls, which anchors shall hook over the second beam. Each tier of beams, front and rear, opposite each pier, shall have hard wood or Georgia pine anchor strips dove-tailed into the beams diagonally, which strips shall cover at least four beams, and be one inch thick and four inches wide, but no such anchor strips shall be let in within four feet of the center line of the beams; or wooden strips shall be nailed on the top of the beams and kept in place until the floors are being laid. Wooden columns supporting wooden girders and wooden floor beams and wooden roof beams, in all buildings more than two stories in height, shall each have cap and base plates of iron not less than one inch thick, and of proper size and shape. Said wooden columns, when placed one over another, shall not bear upon any wooden girder, but shall bear directly upon each other, or shall have between the iron plates suitable iron dowels passing through the girders. All timbers and wood beams used in any building shall be of good, sound material, free from rot, large and loose knots, shakes, or any imperfection whereby the strength may be impaired, and be of such size and dimensions as the purposes for which the building is intended require. Id., §18.

**Stove pipe, fire places, chimneys and hot air flues; Corbelling; Smoke houses; Flues to be cleaned; Vaults in wood-working buildings.**

39. All fire-places<sup>1</sup> and chimneys in stone or brick walls in any building hereafter erected, and any chimney or flues hereafter altered or repaired, without reference to the purpose for which they may be used, shall have the joints struck smooth on the inside, except when lined on the inside with pipe. No pargeting mortar shall be used on the inside of any fire-place, chimney or flue. The fire-backs of all fire-places hereafter erected shall not be less than eight inches in thickness of solid masonry. The stone or brick work of all smoke flues, and the chimney shafts of all furnaces, boilers, bakers' ovens, large cooking ranges and laundry stoves, and all flues used for a similar purpose shall be at least eight inches in thickness. If there is a cast-iron or burnt clay

<sup>1</sup> See 38, ante.

pipe built inside of the same, with one-inch air space all around it, then the stone or brick work inclosing such pipes shall not be less than four inches in thickness. All smoke flues of smelting furnaces or of steam boilers, or other apparatus which heat the flues to a high temperature, shall be built with double walls, with an air space between them, the inside four inches to be of fire-brick or fire-clay slabs or block laid in fire mortar, to the height of twenty-five feet from the bottom. All smoke flues shall extend at least three feet above a flat and at least two feet above a peak roof, and shall be coped with well-burnt terra cotta, stone or cast-iron. In all buildings more than three stories in height hereafter erected, every smoke flue shall be lined on the inside with cast-iron or well-burnt clay, or fireproof terra cotta pipe, from the bottom of the flue, or from the throat of the fire-place, if the flue starts from the latter, and carried up continuously to the extreme height of the flue. The ends of all such lining pipes shall be made to fit close together, and the pipes shall be built in as the flue or flues are carried up. Each smoke pipe shall be enclosed on all sides with not less than four inches of brick work properly bonded together. All stone or brick hot-air-flues and shafts shall be lined with tin, galvanized iron or burnt clay pipes. No wooden casing, furring or lath shall be placed against or cover any smoke flue or metal pipe used to convey hot air or steam. No smoke pipe shall pass through any floor or roof of any building. No stove pipe in any building with wooden or combustible floors, ceilings or partitions, shall enter any flues unless the said pipe shall be at least twelve inches from either the said floors, ceilings or partitions, unless the same is properly protected by a metal shield, in which case the distance shall not be less than six inches. In all cases where stove pipes pass through stud or wooden partitions of any kind, they shall be guarded by either a double collar of metal with at least three inches of air space and holes for ventilation, or a soap-stone or burnt-clay ring not less than one inch in thickness and extending through the partition. When the laundry stoves, hot water, steam, hot-air or other furnaces are used in any building, the smoke pipe leading therefrom must be kept not less than eighteen inches from the floor beams or ceiling unless the same is properly protected by a metal shield, when the distance shall not be less than nine inches. In all cases such pipe passes through a wood or stud partition it shall be protected by a thimble with eight inches of brick work around it or a double collar of metal with at least six inches air space, and holes for ventilation. Tin or other metal flues, or pipes used or intended to be used to convey heated air, shall be inclosed with brick or stone at least four inches in thickness, or other hard incombustible material. Horizontal pipes and hot air pipes in stud partitions, shall be built in the following manner: The pipes shall be double, that is, two pipes, one inside the other, at least one-half inch apart, and there shall be a space of three inches between the pipe and stud on each side; or if a single pipe is used the inside faces of said

stud shall be well lined with tin plate and the outside faces cover-pipes shall be kept six inches below the floor beams or ceilings; if the floor beams or ceilings are plastered and protected by a metal shield, then the distance shall not be less than three inches. In cases where hot air pipes pass through a wood or stud partition, they shall be guarded by either a double collar of metal with one inch air space and holes for ventilation, or they shall be surrounded by brick work at least four inches in thickness. All flues in every building shall be properly cleaned and all rubbish removed and the flues left smooth on the inside upon the completion of all buildings. No chimney shall be started or built upon any floor or beam of wood. In no case shall a chimney be corbeled out more than eight inches from the wall, and in all such cases corbeling shall consist of at least five courses of brick. Where chimneys are supported by piers, the piers shall start from the foundation on the same line with the chimney breast, and shall not be less than twelve inches on the face, properly bonded into the walls. No chimney shall be cut off below, in whole, or in part, and supported by wood, but shall be wholly supported by stone, brick or iron. All chimneys which shall be dangerous in any manner whatsoever, shall be repaired and made safe, or taken down. Iron cupola chimneys of foundries shall extend at least ten feet above the highest point of any roof within a radius of fifty feet of such cupola, and be covered on top with a heavy wire netting. No brick oven, coffee roaster, or any other brick structure to contain fire, shall be placed on a wooden floor or a floor supported by wooden beams in any building. All smoke-houses hereafter erected or constructed shall be built fireproof, and the door and window openings in same shall be provided with iron doors or shutters. Before any building hereafter erected is occupied or used, in whole or in part, for wood working purposes, and before any building erected prior to the passage of this ordinance, but not at such time occupied or used, in whole or in part, for any aforesaid purposes, is so occupied or used, a fireproof vault shall be constructed in connection therewith, of sufficient capacity to contain all shavings, sawdust, chips and other light combustible refuse resulting from such manufacture. All such combustible refuse shall be daily removed to the vault, and shall not be allowed to accumulate within or near the building unless stored in the vault to be provided as herein required. Id., §19.

**Steam pipes, hot air chambers, cold air boxes; Wooden floors; Stoves, ranges; Vaults, &c.; Notice of changes.**

40. No steam pipe shall be placed within two inches of any timber or wood work unless the timber or wood work is protected by a metal shield, then the distance shall not be less than one inch. All steam pipes passing through floors and ceilings or lath and plastered partitions shall be protected by a metal tube one inch larger than the pipe, and the same space shall be filled in with mineral wool, asbestos or other incombustible material. All wooden boxes or casings inclosing steam pipes, and all covers to



recesses shall be lined with iron or tin-plate. All brick hot-air furnaces shall have two covers, with an air space of at least four inches between them; the inner cover of the hot-air chamber shall be either a brick arch or two courses of brick laid on galvanized iron or tin, supported by iron bars; the outside cover, which is the top of the furnace, shall be made of brick or metal supported by iron bars, and so constructed as to be perfectly tight, and shall not be less than four inches below the ceiling or floor beams. The walls of the furnace shall be built hollow in the following manner: One inner and outer wall, each four inches in thickness, properly bonded together, with an air space of not less than three inches between them. Furnaces must be built at least four inches from all wood work. All cold air boxes shall be made of metal, brick or other incombustible material, for a distance of at least three feet from the furnace. All portable hot-air furnaces shall be kept at least two feet from any wooden or combustible partitions or ceilings, unless the partitions and ceilings are properly protected by a metal shield, when the distance shall not be less than one foot. Wooden floors under any portable furnace shall be protected by a suitable stone, or a course of brick well laid in mortar. Said stone or brick shall extend at least two feet beyond the furnace in front of the ash pan. All such register boxes shall be made of tin plate with a flange on the top to fit the groove in the frame, the register to rest upon the same; there shall be an open space of two inches on all sides of the register box, extending from under the side of the border to and through the ceiling below. The said opening shall be fitted with a tight tin casing, the upper end of which shall be turned under the frame. When a register box is placed in the floor over a portable furnace, the open space on all sides of register box shall not be less than three inches. When only one register is connected with a furnace, said register shall have no valve. Stoves shall not be placed nearer than twenty inches to any unprotected woodwork. Floors under all stoves shall be protected by a covering of incombustible material. When a kitchen range is placed near a wooden stud partition, the studs shall be cut away and framed two feet higher and one foot wider than the range, and filled in to a line with said stud partition with brick or fireproof blocks and plastered thereon, unless said partition is protected by zinc or other incombustible material. In cases where hot water, steam, hot air or other heating appliances or furnaces are hereafter placed in any building, or flues or fireplaces are changed or enlarged, due notice shall first be given to the building inspector by the contractor or superintendent of said work. Id., §20.

**Gas, light and water and other pipes; Electric wires.**

41. No gas, water or other pipes which may be introduced into any building shall be let into the beams unless the same be placed within thirty-six inches of the end of the beams; and in no building shall the said pipes be let into the beams more than two inches in depth. Every building other than a dwelling house, hereafter

erected, and all factories, hotels, churches, theaters, school houses and other buildings of a public character now erected in which gas or steam is used for lighting or heating shall have the supply pipes leading from the street mains provided each with a stop-cock placed in the sidewalk at or near the curb, and so arranged as to allow of shutting off at that point. All gas brackets shall be placed at least three feet below any ceiling or wood work, unless the same is properly protected by a shield; in which case the distance shall not be less than eighteen inches. No swinging or folding gas brackets shall be placed against any stud partition or wood work. Gas lights placed near window curtains or any other combustible material shall be protected by a proper shield. Every electric wire<sup>1</sup> for furnishing light, heat or power, led into any building from the outside thereof, shall be arranged with suitable appliances to cut off the current, according to the Rules of the Underwriters' Association. All wires placed inside of the buildings, where in connection with areal or underground wires and carrying electrical currents, shall be properly insulated. Id., §21.

**Doors, blinds or shutters, when to be closed.**

42. Every building which is more than two stories in height above the curb level except dwelling houses, hotels, office buildings, school houses and churches shall have doors, blinds or shutters made of iron, hung on iron hanging frames or two iron eyes built into the wall, on every window and opening above the first story thereof, excepting on the front openings of buildings fronting on streets or open spaces which are more than thirty feet in width. Or the said doors, blinds or shutters may be constructed of pine or other soft wood of two thicknesses of matched boards at right angles with each other, and securely covered with tin, on both sides and edges, with folded lapped joints, the nails for fastening the same being driven inside the lap; the hinges and bolts or lathes shall be secured or fastened to the door or shutter after the same has been covered with the tin, and such doors or shutters shall be hung upon an iron frame, independent of the wood work of the windows and doors, or two iron hinges securely fastened in the masonry; or such frames, if of wood, shall be covered with tin in the same manner as the doors and shutters. All occupants of buildings shall close the said shutters, doors and blinds at the close of the business of each day. All shutters opening on fire escapes, and at least one row, vertically, in every three rows on the front window openings above the first story of any building, shall be so arranged that they can be readily opened from the outside by firemen. All rolling iron or steel shutters hereafter placed in first story of any building shall be counterbalanced so that said rolling shutters may be readily opened by the firemen. Where openings in interior brick walls are fitted with fireproof doors or shutters to prevent the spread of fire between different buildings, or between parts of any building, the said doors or shutters shall be

<sup>1</sup> See Electric Light Apparatus.

closed at the close of business of each day by the occupants of the building having use of the same. Id., §22.

**Elevators, guard for, roof over; Inspection of; Person in charge of; Hotels; Notice.**

43. In any building in which there shall be any hoistway or freight elevator or well hole not inclosed in walls constructed of brick or other fireproof material, and provided with fireproof doors, the openings thereof through and upon each floor of said building shall be provided with and protected by a substantial guard or gate, and with such good and sufficient trap doors, with which to close the same, as may be directed and approved by the building inspector; and when, in his opinion, automatic trap doors are required to the floor openings of any uninclosed freight elevator, the same shall be so constructed as to form a substantial floor surface when closed, and so arranged as to open and close by the action of the elevator in its passage either ascending or descending. The said inspector shall have exclusive power and authority within said city to require the openings of hoistway shaft, elevators and well holes in buildings to be inclosed or secured by trap doors, guards or gates shall be kept closed at all times, except when in actual use, and the trap doors shall be closed at all times, except when in actual use, and the trap doors shall be closed at the close of business of each day by the occupant or occupants of the building having the use or control of the same. In all buildings hereafter erected the roof, immediately over the hoistway, elevator or well hole, shall be covered with a skylight of suitable size, glazed with thin sheet glass, so as to allow smoke, gases and flame to readily force their way through when a fire occurs. The glass in every such skylight shall have immediately under the same a wire netting, unless the glass contains a wire netting within itself, or what is known as a wire glass. Elevators may be put in the well hole or stairs, in buildings, without such brick or fireproof inclosures, where the stairs are inclosed in brick or stone walls, and the stairs are constructed as specified in section eleven of this ordinance. Elevators may also be placed in any stair, well or open court of any building erected prior to the passage of this ordinance, under a permit therefor from the building inspector, but the frame work and inclosure of any such elevator shall be constructed of fireproof materials. The roofs over all inclosed elevators shall be made of fireproof materials, with a skylight at least three-fourths of the area of the shafts, made of thin sheet glass, set in iron frames, as hereinbefore in this section described, including wire netting underneath the glass to the skylight or the use of wire glass. Immediately under the machinery at the top of every elevator shaft hereafter placed in any building in this city there shall be provided and placed a substantial grating or screen of iron, of such construction as shall be approved by the building inspector. The building inspector shall cause an inspection of the passenger elevators as often as once a year. Any repairs found necessary upon inspection of any elevator shall be

made without delay by the owner or persons having care or control of the same, and in case defects are found to exist which would endanger life by the continued use of such elevator, then, upon notice from the building inspector, the use of such elevator shall cease, and it shall not again be used until a certificate shall be first obtained from said inspector that such elevator has been put in order and is fit for use. No person shall employ or permit any person to be in charge of running any passenger elevator who is under eighteen years of age, or who does not possess proper qualifications therefor. Every freight elevator or lift shall have a notice posted conspicuously thereon as follows: "Persons riding on this elevator do so at their own risk." Every elevator in any building erected or to be occupied as a hotel shall be inclosed in fire-proof walls. Id., §23.

**Exterior cornices and gutters; Extension of planking, sheathing, etc.; Shingle roof; Bulkheads, dormer-windows, skylights.**

44. All exterior cornices and gutters of all buildings, within the limits described in section 1 hereafter erected, shall be of fire-proof material. All fire-proof cornices shall be well secured to the walls with iron anchors, independent of any woodwork. Where a wall is finished with a cornice of stone, terra cotta or similar material, the greatest weight of the material of such cornice shall be on the inside of the face of the wall, so that the cornice shall firmly balance upon the wall. In all cases the walls behind metal cornices shall be carried up to the planking of the roof, and where the cornice projects above the roof the wall shall be carried up to the top of the cornice, and the party walls shall be in all cases extended up above the planking of the cornice and be coped. All exterior wooden cornices that may now or that may hereafter become unsafe or rotten, shall be taken down, and if replaced shall be constructed of fire-proof material. All exterior cornices of wood or gutters that may hereafter be damaged by fire to the extent of one-third shall be taken down, and if replaced shall be constructed of fire-proof material; but if not damaged to the extent of one-third, the same may be repaired with the same kind of material of which they were originally constructed. Bulkheads used as inclosures for elevators and coverings for the machinery of elevators and all other bulkheads, including the bulkhead of all dwelling houses hereafter erected or altered, may be constructed of hollow fire-proof blocks or of wood covered with not less than two inches of fire-proof material or filled in the thickness of the studding with such material, and covered on the outside with metal, including sides and edges of doors. Covers on top of water tanks placed on roofs, may be of wood covered with tin. The planking and sheathing of the roof of every building hereafter erected shall in no case be extended across the front, rear, side, end or party walls thereof. Every such building and the tops and sides of every dormer window thereon shall be covered and roofed with slate, tin, copper, iron, gravel or such other quality of fire-proof roofing as the building inspector,

under his certificate, may authorize, and the outside of the frames of every dormer window hereafter placed upon any building as aforesaid, shall be of fire-proof material. Nothing in this section shall be construed to prohibit the repairing of any shingle roof, provided the building is not altered in height. All buildings shall have scuttles or bulkheads covered with fire-proof material, with ladders or stairs leading thereto. No scuttle shall be less in size than two by three feet. All skylights having a superficial area of more than twelve square feet, placed in any building, shall have the sashes and frames thereof constructed of iron and glass. All buildings shall be kept provided with proper metallic leaders<sup>1</sup> for conducting water from the roofs in such manner as shall protect the walls and foundations of said buildings from injury. Id., §24.

**Altering buildings; Limitations; Removals.**

45. It shall not be lawful for the owner or owners of any brick dwelling house with eight-inch walls, or any wooden building already erected that has a peaked roof, to raise the same for the purpose of making a flat roof thereon, unless the same be raised with the same kind of material as the building, and unless such new roof be covered with some of the articles mentioned in section 32 of this ordinance, and provided that such building, when so raised, shall not exceed forty feet in height to the highest point thereof. All such buildings must not exceed twenty-five feet in height to the peak of the roof before the said alteration and raising. If any such building shall have been built before the street upon which it is located is graded, or if the grade is altered, such building may be raised or lowered to meet the requirements of such grade. No frame building more than two stories in height now used as a dwelling, shall hereafter be raised or altered to be used as a factory, warehouse or stable. No brick or wooden building shall be enlarged or built upon unless the exterior walls of said addition or enlargement be constructed of fire-proof materials; *Provided, however*, that such brick or wooden buildings may be raised, lowered or altered, under the same circumstances and in the same manner specially provided for in this section. No wooden building shall be moved from one lot to another until a sworn petition setting forth the purposes of said removal, and the uses to which said building is to be applied, is filed in the office of the building inspector, and the written consent of said inspector is first obtained therefor. Id., §25.

**Wooden buildings damaged by fire or other causes.**

46. Every wooden or frame building, with a brick or other front, which may hereafter be damaged to an amount not greater than one-half of the value thereof, exclusive of the value of the foundation thereof, at the time of such damage, may be repaired or rebuilt; but if such damage shall amount to more than one-half of such value thereof, exclusive of the value of the founda-

<sup>1</sup> See 14, ante.

tion, then such building shall not be repaired or rebuilt, but shall be taken down. The amount and extent of such damage shall be determined upon an examination of the building by one surveyor, who shall be appointed by said building inspector, and one surveyor, who shall be appointed by the owner or owners of said premises. In case these two surveyors do not agree, they shall appoint a third surveyor to take part in such examination, and a decision of a majority of them, reduced to writing and sworn to, shall be conclusive, and such building shall in no manner be repaired or rebuilt until after such decision shall have been rendered. If the damage be by fire, or lightning, or wind storm, and such damage is insured against, then the third surveyor provided for in this section shall be appointed by the Underwriters' Association of Harrisburg; provided that this shall only apply to buildings within fire lines. Id., §26.

**Frame buildings, fences, signs, piazza roofs, bay windows, sheds, grain elevators, wood or coal houses, etc.; Lumber piles.**

47. No frame building already erected shall be altered to be occupied by more than three families. Temporary one-story frame buildings may be erected for the use of builders, within the limits of lots whereon buildings are in the course of erection, or on adjoining vacant lots upon permits issued by the building inspector. Fences of wood shall not be erected over ten feet high.<sup>1</sup> Signs of wood<sup>2</sup> shall not be erected over two feet high on any building. The roof of all piazzas, except those of wooden buildings, shall be covered with some fire-proof material. Sheds of wood not over fifteen feet high, open on at least one side, with the sides and roof thereto covered with fire-proof material, may also be built, but no fence shall be used as the back or side of any such shed. Any bay or oriel window<sup>3</sup> that does not extend more than three feet above the second story ceiling line of any dwelling house may be built of wood. Exterior privies and wood or coal houses, not exceeding one hundred and fifty square feet in superficial area and eight feet high, may be built of wood. Grain elevators may be constructed of wood, but all the external work shall be covered with incombustible material, and when such building exceeds sixty feet in height the two lower stories shall be of brick. Lumber or other wood, or second-hand combustible material shall not be piled at any lesser distance from the nearest dwelling house than double the height of such pile. Id., §27.

**Fire escapes, not to be encumbered; Public safety and duties of firemen and policemen; Chief engineer.**

48. Every dwelling house occupied by three or more families above the first story, and every building already erected, or that may hereafter be erected, more than three stories in height, occupied and used as a hotel or lodging house, and every boarding house having more than fifteen sleeping rooms above the basement story, and every factory, mill, manufactory or work shop, hospital, asy-

<sup>1</sup> See Fences.

<sup>2</sup> See Awnings and Signs.

<sup>3</sup> See 16, ante.

lum or institution for the care or treatment of individuals, and every building in whole or in part occupied or used as a school or place of instruction or assembly, and every office building five stories or more in height, shall be provided with such good and sufficient fire escapes, stairways or other means of egress in case of fire as shall be directed by the building inspector. The building inspector shall make rules and regulations for the construction of outside fire escapes, balconies and ladders. Said rules and regulations shall conform to the laws of Pennsylvania. The building inspector shall have full and exclusive power and authority within said city to direct fire escapes and other means of egress to be provided upon and within said buildings or any of them. The owner or owners of any building upon which a fire escape is erected shall keep the same in good repair and properly painted. No person shall at any time place any incumbrance of any kind whatsoever before or upon any fire escape. It shall be the duty of every fireman and policeman who shall discover any fire escape balcony or ladder of any fire escape incumbered in any way to forthwith report the same to the commanding officer of his company or precinct, and such commanding officer shall forthwith cause the occupant of the premises or apartment to which said fire escape, balcony or ladder is attached or for whose use the same is provided, to be notified either verbally or in writing, to remove such incumbrance and keep the same clear. If such notice shall not be complied with by the removal forthwith, of such incumbrance, and keeping said fire escape, balcony or ladder free from incumbrance, then it shall be the duty of said commanding officer to apply to the nearest alderman for a warrant for the arrest of the occupant or occupants of the said premises or apartment of which the fire escape forms a part, and the said parties shall be brought before the said alderman, as for a misdemeanor; and on conviction, the occupant or occupants of said premises or apartment shall be fined not more than ten dollars for each offense, or may be imprisoned not to exceed ten days, in case the fine is not paid. In constructing all balcony fire escapes, the manufacturer thereof shall securely fasten thereto, in a conspicuous place, a cast iron plate having suitable raised letters on the same, to read as follows: "Notice! Any person placing any incumbrance on this balcony is liable to a penalty of ten dollars or imprisonment for ten days." The owner, proprietor or manager of every hotel and lodging house and of every boarding house having more than fifteen sleeping room above the ground floor, and the person or persons having charge or management of every public or private hospital or asylum building, as may be deemed necessary by the chief engineer of the fire department of said city, shall within three months after the passage and approval of this ordinance, place or cause to be placed in every room used as a lodging or sleeping room in such building, except the rooms on the ground floor, and also excepting rooms one or more windows of which open upon a fire escape having direct access to the ground, a

manila rope, or other better appliance, to be approved by the said chief of fire department, to be used as an auxiliary means of escape. Said rope or other appliance shall be securely fastened on one end to a suitable iron hook, or eye, to be securely driven into or fastened to the wall or stud next adjoining the frame of the window, or one of the windows, of such room, and at all times be coiled up and exposed to view of the occupant of the room, the coil to be fastened in such slight manner as to be easily and quickly loosened. Said rope shall not be less than one-half inch in diameter, and shall be of sufficient length to sustain the weight of not less than one thousand pounds. The chief of said department shall cause any building to which the requirement of rope escapes applies, to be periodically inspected to ascertain whether the provisions of this section as to ropes have been complied with, and to report any omission or neglect thereof to the city solicitor. The provisions of this section in regard to auxiliary fire escapes shall not apply to fire-proof buildings. All buildings requiring fire escapes shall have stationary iron ladders leading to the scuttle opening in the roof thereof, and all scuttles and ladders shall be kept so as to be ready for use at all times. If a bulkhead is used in place of a scuttle, it shall have stairs with sufficient guard or hand rail leading to the roof. In case the building shall be a tenement house, the door in the bulkhead or any scuttle shall at no time be locked, but may be fastened on the inside by movable bolts or hooks. Every dwelling house arranged for or occupied by two or more families above the first story, hereafter erected, shall be provided with an entrance in the basement thereof from the outside of such building. Id., §28.

**Light and ventilation.**

49. The light and ventilation of every building hereafter erected or altered to be occupied as an apartment house, tenement house, lodging house or hotel, shall be provided in accordance with the rules and regulations as prescribed by the building inspector. Id., §29.

**Egress; License may be revoked; Location of school house; Location of criminal court and prison.**

50. In all buildings of a public character, such as hotels, churches, theaters, restaurants, railroad depots, public hall and other buildings used or intended to be used for purposes of public assembly, amusement or instruction, the halls, doors, stairways, seats, passageways and aisles, and all lighting and heating appliances and apparatus shall be arranged as the building inspector shall direct to facilitate egress in cases of fire or accident, and to afford the requisite and proper accommodation for the public protection in such cases. All aisles and passageways in said buildings shall be kept free from camp stools, chairs, sofas and other obstructions, and no person shall be allowed to stand in or occupy any of said aisles or passageways during any performance, service, exhibition, lecture, concert, ball or other



public assemblage.<sup>1</sup> The building inspector, with the concurrence of the chief engineer of the fire department, may, at any time, serve a written or printed notice upon the owner, lessee or manager of any of said buildings, directing any act or thing to be done or provided in or about the said buildings and the several appliances therewith connected, such as halls, doors, stairs, windows, seats, aisles, fire walls and fire escapes, so as to afford such security to the public in the uses to which they may be severally applied, as they may deem necessary. Nothing herein contained shall be construed to authorize or require any other alterations to existing theaters than are specified in this section. Upon report to the mayor of the city, by the building inspector, that any order or requirement of this ordinance in regard to theaters or places of public amusement has been violated or not complied with, in any such building, the said mayor may, in his discretion, revoke the license of such theater or place of public amusement, and cause the same to be closed. No building to be used and occupied as a public school shall hereafter be erected within two hundred feet of a block occupied in whole or in part by a criminal court and prison, or either a criminal court or prison, nor shall it be lawful to hereafter erect a building to be used and occupied as a criminal court and prison, or either of them, within two hundred feet of a block occupied in whole or in part by a public school building. Id., §30.

**Theaters, &c., how to be built; Aisles regulated; To be inspected.**

51. (a) Every theater or opera house, or other building intended to be used for theatrical or operatic purposes, or for public entertainment of any kind where stage scenery and apparatus are employed, hereafter erected, shall be built to comply with the requirements of this section. No building which, at the time of the passage of this act, [sic] is not in actual use for theatrical or operatic purposes, and no building hereafter erected not in conformity with the requirements of this section, shall be used for theatrical or operatic purposes, or for public entertainments of any kind where stage scenery and apparatus are employed, until the same shall have been made to conform to the requirements of this section. And no building hereinbefore described shall be opened to the public for theatrical or operatic purposes or for public entertainments of any kind where stage scenery or apparatus are employed, until the building inspector shall have approved the same in writing as conforming to the requirements of this section, and the mayor of the city shall refuse to issue any license for any such building, and shall close the same, and prevent its opening until a certificate in writing of such approval shall have been given by the building inspector. (b) Every such building shall have from and to the street suitable means of entrance and exit for the audience. In addition to the aforesaid entrances and exits on the street, there shall be reserved for service in case of an emergency, an open court or space on the

<sup>1</sup> See Auditoriums (Public).

side not bordering on the street, where said building is located on a corner lot; and on both sides of said building, where there is but one frontage on the street. The width of such open court or courts shall not be less than seven feet where the seating capacity is not over one thousand people, above one thousand and not more than eighteen hundred people, eight feet in width, and above eighteen hundred people, ten feet in width. Said open court or courts shall begin on a line with or near the proscenium wall and shall extend the length of the auditorium proper, to or near the wall separating the same from the entrance lobby or vestibule. A separate and distinct corridor shall continue to the street, from each open court, through such superstructure as may be built on the street side of the auditorium with continuous walls of brick or fire-proof materials on each side of the entire length of said corridor or corridors, and the ceiling and floors shall be fire-proof. Said corridor or corridors shall not be reduced in width to more than two feet less than the width of the open court or courts, and there shall be no projection in the same; the outer openings to be provided with doors or gates opening toward the street. During the performance the doors or gates in the corridor shall be kept open by proper fastenings; at other times they may be closed and fastened by movable bolts or locks. The said open courts and corridors shall not be used for storage purposes, or for any purpose whatsoever except for exit and entrance from and to the auditorium and stage, and must be kept free and clear during performances. The level of said corridors at the front entrance of the building shall not be greater than one step above the level of the sidewalk where they begin at the street entrances, and the entrance of the main front of the building shall not be on a higher level from the sidewalk than four steps, unless approved by the building inspector. To overcome any difference of level existing between exit from parquet into courts and the level of the said corridors, gradients shall be employed of not over one foot in ten with no perpendicular risers. From the auditorium opening into the said open courts, or on the side street, there shall be not less than two exits on each side in each tier from and including the parquet and each and every gallery. Each exit shall be at least five feet in width in the clear, and provided with doors of iron, or wooden doors covered with tin on both sides and edges. All of said doors shall open outwardly, and must be fastened with movable bolts, the bolts to be kept drawn during performances. (c) There shall be balconies not less than four feet in width in the said open court or courts, at each level or tier above the parquet, on each side of the auditorium, of sufficient length to embrace the two exits, and from said balconies there shall be staircases extending to the ground level, with a rise of not over eight and one-half inches to a step, and not less than nine inches tread, exclusive of the nosing. The staircase, from the upper balcony to the next below, shall not be less than thirty inches in width

in the clear, and from the first balcony to the ground, three feet in width in the clear where the seating capacity of the auditorium is for one thousand people or less; three feet and six inches in the clear where above one thousand and more than eighteen hundred people, and four feet in the clear above eighteen hundred people and not more than twenty-five hundred people, and not over four feet six inches in the clear where above twenty-five hundred people. All the before-mentioned balconies and staircases shall be constructed of iron throughout, including the floors, and of ample strength to sustain the load to be carried by them, and they shall be covered with a metal hood or awning, to be constructed in such manner as shall be satisfactory to the building inspector. Where one side of the building borders on a street there shall be balconies and staircases of like capacity and kind as before mentioned, but said staircases shall end at a balcony placed not less than seven feet above the level of the ground, and from said balcony to the ground there shall be arranged a hinged iron ladder. (d) When located on a corner lot, that portion of the premises bordering on the side street, and not required for the uses of the theater, may, if such portion be not more than twenty-five feet in width, be used for offices, stores or apartments, provided the walls separating this portion from the theater proper are carried up solidly to and through the roof, and that a fire-proof exit is provided for the theater, on each tier, equal to the combined width of exits opening on opposite sides in each tier, communicating with balconies and staircases leading to the street in manner provided elsewhere in this section; and exit passages shall be entirely cut off by brick walls from said offices, stores or apartments and the floors and ceilings in each tier shall be fire-proof. (e) Nothing herein contained shall prevent a roof garden, art gallery, or rooms for similar purposes being placed above a theater or public building, provided the floor of the same forming the roof over such theater or building shall be constructed of iron or steel and fire-proof materials, and that said floor shall have no covering boards or sleepers of wood, but be of tile or cement. Every roof over said garden or rooms shall have all supports and fasteners of iron or steel, and be covered with glass or fire-proof materials, or both, but no such garden, art gallery or room for any public purpose shall be placed over or above that portion of any theater or other building which is used as a stage. (f) No workshop, storage or general property room shall be allowed above the auditorium or stage, [D, 1] or under the same, or in any of the fly galleries. All of said rooms or shops may be located in the rear or at the side of the stage, but in such cases they shall be separated from the stage by a brick wall, and the openings leading into said portions shall have fire-proof doors on each side of the openings, hung to iron eyes built into the wall. (g) No portion of any building hereafter erected or altered, used or intended to be used for theatrical or other purposes as in this

section specified, shall be occupied or used as a hotel, boarding or lodging house, factory, workshop or manufactory or for storage purposes, except as may be hereafter specially provided for. No store or room contained in the building, or the offices, stores or apartments adjoining, as aforesaid, shall be let or used for carrying on any business dealing in articles designated as especially hazardous in the classification of the Underwriters' Association of Pennsylvania, or for manufacturing purposes. No lodging accommodations shall be allowed in any part of the building communicating with the auditorium. (h) Interior walls built of fire-proof materials shall separate the auditorium from the entrance vestibule, and from any room or rooms over the same; also from any lobbies, corridors, refreshment or other rooms. All staircases for the use of the audience shall be inclosed with walls of brick, or fire-proof materials approved by the inspector of buildings, in the stories through which they pass and the opening to said staircases from each tier shall be the full width of such staircase. A fire-wall, built of brick, shall separate the auditorium from the stage, and the same shall extend at least four feet above the stage roof, or the auditorium roof, if the latter be the higher, and shall be coped. (i) Above the proscenium opening there shall be an iron girder of sufficient strength to support the brick wall above, and covered with fire-proof materials to protect it from the heat. Should there be constructed an orchestra over the stage, above the proscenium opening, the said orchestra shall be placed on the auditorium side of the proscenium fire-wall, and shall be entered only from the auditorium side of said wall. The molded frame around the proscenium opening shall be formed entirely of fire-proof materials; if metal be used, the metal shall be filled in solid with non-combustible material and securely anchored to the wall with iron. The proscenium opening shall be provided with a fire-proof metal curtain, or a curtain of asbestos, or other fire-proof material approved by the building inspector, sliding at each end within iron grooves or other approved device, securely fastened to the brick wall, and extending beyond the opening not less than six inches on each side. Said fire-proof curtain shall be raised at the commencement of each performance and lowered at the close of said performance, and be operated by approved machinery for that purpose. The proscenium curtains shall be placed at least three feet distant from the footlights at the nearest point. (j) All doorways or openings through the proscenium wall, from the auditorium, in every tier, shall have doors of iron or tin-covered wooden doors on each face of the walls, and the doors hung so as to be opened from either side at all times. There shall be no openings in the proscenium fire-wall above the level of the auditorium ceiling. Direct access to these doors shall be provided on both sides, and the same shall be free from any encumbrance. Iron ladders or stairs, securely fixed to the wall, on the stage side, shall be provided to overcome any difference of level

existing between the floor or galleries on the stage side of the fire-wall and those on the side of the auditorium. (k) There shall be provided over the stage metal skylights of an area or combined area of at least one-twelfth the area of said stage fitted up with sliding sash and glazed with double thick sheet glass, not exceeding one-eighth of an inch thick, and each pane thereof measuring not less than three hundred square inches, and the whole of which skylight shall be so constructed as to open instantly on the cutting or burning of a hempen cord, which shall be arranged to hold said skylights closed, or some other simple approved device for opening them may be provided. Immediately under the glass of said skylights there shall be a wire netting, unless the glass contains a wire netting within itself. (l) All that portion of the stage not comprised in the working of scenery, traps and other mechanical apparatus, for the presentation of a scene, usually equal to the width of the proscenium opening shall be built of iron or steel beams filled in between with fire-proof material, and all girders for the support of said beams shall be of wrought iron or rolled steel. The ceiling, or under side of the fly galleries shall be covered with iron or tin over the entire exposed woodwork. All stage scenery, curtains and decoration made of combustible material and all woodwork on or about the stage, shall be painted or saturated with some non-combustible material to render the same safe against fire, to the satisfaction of the building inspector. (m) Nothing herein contained shall prohibit the use of wood construction for floors not specially mentioned, roofs and galleries, except that the supports of galleries shall be of iron or steel, provided that all such woodwork on or about or under the stage, in the auditorium, all wood furring, the under side of roof boards, the under side of floor boards covering wood construction, fronts of galleries and boxes, shall all be painted or saturated with not less than two coats of some non-combustible material, to render the wood safe against fire, to the satisfaction of the building inspector. All timber and other wood constructions shall be so painted or saturated before being covered in. The finishing coats of paint applied to all woodwork throughout the entire building shall be of such kind as will resist fire. (n) The entire main floor of the auditorium and vestibule, also the entire floor of the second story of the front superstructure over the entrance lobby and corridors, shall be constructed of iron or steel and fire-proof materials not including the use of wooden floor boards and necessary sleepers to fasten the same, but such sleepers shall not mean timbers of support and the space between the sleepers shall be solidly filled with fire-proof materials. The partitions in that portion of the building which contains the auditorium, the entrance vestibule or any room or passage devoted to the use of the audience, shall be constructed of fire-proof materials. None of the walls or ceilings shall be covered with wood sheathing or canvas or any combustible material, but this shall not exclude the use of wood

wainscoting to a height not to exceed six feet, which shall be filled in solid between the wainscoting and the wall with fire-proof materials. All lathing, whenever used, shall be of wire or sheet metal. (o) The walls separating the actors' dressing rooms from the stage, and the partitions dividing the dressing rooms, together with the partitions of every passage from the same to the stage, and all other partitions on or about the stage, shall be constructed of some fire-proof material approved by the building inspector. All doors in any of said partitions shall be of iron or wood covered with tin. All the shelving and cupboards in each and every dressing room, property room or other storage rooms shall be constructed of metal, slate or some fire-proof material. Dressing rooms may be placed in the fly galleries, provided that the proper exits are secured therefrom to the fire escapes in the open courts, and that the partitions and other matters pertaining to dressing rooms shall conform to the requirements herein contained, but the stairs leading to the same shall be fire-proof. (p) All seats in the auditorium, excepting those contained in boxes, shall be firmly secured to the floor, and no seat in the auditorium shall have more than six seats intervening between it and an aisle, on either side, and no stool or seat shall be placed in any aisle.<sup>1</sup> All platforms in galleries formed to receive the seats shall not be more than twenty-one inches in height of riser, nor less than thirty-two inches in width of platform. All aisles on the respective floors in the auditorium, having seats on both sides of the same, shall not be less than three feet wide where they begin, and shall be increased in width towards the exits in the ratio of one and one-half inches to five running feet. Aisles having seats on one side only shall be not less than two feet wide at their beginnings and increased in width the same as aisles having seats on both sides. The aggregate capacity of the foyers, lobbies, corridors, passages and rooms for the uses of the audience, not including aisle space between seats, shall, on each floor or gallery, be sufficient to contain the entire number to be accommodated on said floor or gallery, in the ratio of one hundred and fifty superficial feet of floor room for every one hundred persons. Gradients or inclined planes shall be employed instead of steps, where possible, to overcome slight differences of level in or between aisles, corridors and passages. (q) Every theater accommodating three hundred persons, shall have, at least, two exits; when accommodating five hundred persons, at least three exits shall be provided. These exits not referring to or including the exits to the open court or courts at the sides of the theater. Doorways of exit or entrance for the use of the public shall not be less than five feet in width, and for every additional one hundred persons or portions thereof to be accommodated in excess of five hundred aggregate of twenty inches additional exit width must be allowed. All doors of exit or entrance shall open outwardly and be hung to swing in such a manner as not to become an obstruction in a passage or corridor, and no such doors shall be closed or locked during any represen-

<sup>1</sup> See Auditoriums (Public).

tation, or when the building is open to the public. Distinct and separate places of exit and entrance shall be provided for each gallery above the first. A common place of exit and entrance may serve for the main floor of the auditorium and the first gallery. (r) No passage leading to any stairway communicating with any entrance or exit shall be less than four feet in width in any part thereof. All stairs within the building shall be constructed of fire-proof material throughout. Staircases serving for the exit of fifty people must be at least four feet wide, between railings or between walls, and for every additional fifty people to be accommodated, six inches must be added to their width. In no case shall the risers of any stairs exceed seven inches in height, nor shall the treads, exclusive of nosings, be less than ten and one-half inches wide in straight stairs. No circular or winding stairs for the use of the public shall be permitted. (s) Where the seating capacity is for more than one thousand people, there shall be at least two independent staircases, with direct exterior outlets, provided for each gallery in the auditorium, where there are not more than two galleries, and the same shall be located on opposite sides of said galleries. Where there are more than two galleries, one or more additional staircases shall be provided, the outlets from which shall communicate directly with the principal exit or other exterior outlets. All staircases shall be of width proportioned to the seating capacity as elsewhere herein prescribed. Where the seating capacity is for one thousand people, or less, two direct lines of staircases only shall be required, located on opposite sides of the galleries, and in both cases shall extend from the sidewalk level to the upper gallery, with outlets from each gallery to each of said staircases. At least two independent staircases, with direct exterior outlets, shall also be provided for the service of the stage and shall be located on the opposite side of the same. All inside stairways leading to the upper galleries of the auditorium shall be inclosed on both sides with the walls of fire-proof materials. Stairs leading to the first or lower gallery may be left open on one side, in which case they must be constructed as herein provided for similar stairs leading from the entrance hall to the main floor of the auditorium. But in no case shall stairs leading to any gallery be left open on both sides. When stairs return directly on themselves, a landing of the full width of both flights, without any steps, shall be provided, and the outer line of landings shall be curved, so as to avoid square angles. Stairs turning at an angle shall have a proper landing without winders introduced at said turn. In stairs, when two side flights connected with one main flight, no winders shall be introduced, and the width of the main flights shall be at least equal to the aggregate width of the side flights. All inclosed staircases shall have on both sides, strong handrails firmly secured to the wall about three inches distant therefrom and about three feet above the stairs, but said handrails shall not run on level platform and landings where the same is more in length than the width of the stairs. All staircases

seven feet and over in width shall be provided with a center hand-rail of hard wood, or metal, not less than two inches in diameter placed at a height of about three feet above the center of the treads and supported on wrought-iron or brass standards of sufficient strength, placed not nearer than four feet nor more than six feet apart, and securely bolted to the treads or risers of stairs or both.

(t) Every steam boiler which may be required for heating or other purposes shall be located outside of the building, and the space allotted to the same shall be inclosed by walls of masonry on all sides, and the ceiling of such space shall be constructed of fire-proof materials. All doorways in said walls shall have iron doors. No coil or radiator shall be placed in any aisle or passageway used as an exit, but all said coils and radiators shall be placed in recesses formed in the wall or partition to receive the same. All supply, return or exhaust pipes shall be properly incased and protected where passing through floors or near wood work.

(u) Stand pipes of two and one-half inches diameter shall be provided with hose attachments on every floor and gallery, as follows, namely: One on each side of the auditorium in each tier, and one on each side of the stage in each tier, and at least one in the property room and one in the carpenter's shop, if the same be contiguous to the building. All such stand pipes shall be kept clear from obstruction. Such stand pipes shall be separate and distinct, receiving their supply of water direct from the steam pumps and shall be fitted up with the regulation couplings of the fire department and shall be kept constantly filled with water by means of an automatic steam pump or pumps, of sufficient capacity to supply all the lines of hose when operated simultaneously; and the said pump or pumps shall be supplied with water from the street main and be ready for immediate use at all times during a performance in said building. A separate and distinct system of automatic sprinklers, with fusible plugs, approved by the building inspector, supplied with water from a tank located on the roof over the stage and not connected in any manner with the stand pipes, shall be placed on the ceiling or roof over the stage at such intervals as will protect every square foot of stage surface when said sprinklers are in operation. Automatic sprinklers shall also be placed in the dressing rooms under the stage, in the carpenter shop, paint rooms, store rooms and property rooms. A proper and sufficient quantity of two and one-half-inch hose, not less than fifty feet in length, fitted with the regulation couplings of the fire department and with nozzles attached thereto, and with hose spanners at each outlet, shall be kept always attached to each hose attachment. There shall also be kept in readiness for immediate use on the stage, at least four casks full of water, and two buckets to each cask. Said casks and buckets shall be painted red. There shall also be provided hand pumps, or other portable fire extinguishing apparatus, and at least four axes, and two twenty-five-foot hooks, two fifteen-foot hooks and two ten-foot hooks on each tier of floor of the stage [sic].

(v) Every portion of the



building devoted to the uses or accommodation of the public, also all outlets leading to the streets, and including the open courts and corridors, shall be well and properly lighted during every performance, and the same shall remain lighted until the entire audience has left the premises. At least two or more oil lamps on each side of the auditorium, in each tier, shall be provided on fixed brackets, not less than seven feet above the floor. Said lamps shall be filled with whale or lard oil, and shall be kept lighted during each performance, or in place of said lamps candles shall be provided. (w) All gas or electric lights in the halls, corridors, lobby, or any other part of said buildings used by the audience, except the auditorium, must be controlled by a separate shut-off, located in the lobby, and controlled only in that particular place. Gas mains supplying the buildings shall have independent connections for the auditorium and stage, and provisions shall be made for shutting off the gas from the outside of the building. When interior gas lights are not lighted by electricity other suitable appliances, to be approved by the building inspector, shall be provided. All suspended or bracket lights, surrounded by glass, in the auditorium, or in any part of the building devoted to the public shall be provided with proper wire netting underneath. No gas or electric light shall be inserted in the walls, woodwork, ceilings, or in any part of the buildings unless protected by fire-proof materials. All lights in passages and corridors in said buildings, and wherever deemed necessary by the building inspector, shall be protected with proper wire network. The footlights, in addition to the wire network, shall be protected by a strong wire guard or chain placed not less than two feet distant from said footlights, and the trough containing said footlights shall be formed of and surrounded by fire-proof materials. All border lights shall be constructed according to the best known methods, subject to approval of the building inspector, and shall be suspended for ten feet by wire. All ducts or shafts used for conducting heated air from the main chandelier, or from any other light or lights, shall be constructed of metal and made double, with an air space between. All stage lights shall have strong metal wire guards or screens, not less than ten inches in diameter, so constructed that any material in contact therewith shall be out of reach of the flames of said stage lights, and shall be soldered to the fixture in all cases. The stand pipes, gas pipes, electric wires, hose and all apparatus for the extinguishing of fire or guarding against the same, as in this section specified, shall be in charge and under control of the fire department, and the chief engineer of said department is hereby directed to see that the arrangements in respect thereto are carried out and enforced. (x) A diagram or plan of each tier, gallery or floors, showing distinctly the exits therefrom, shall be printed in a legible manner on the programme of the performance. Every exit shall have over the same on the inside the word exit painted in legible letters not less than eight inches high. Id., §31.

**Ordinary repairs; Plans to be submitted to building inspector; Permit.**

52. Before the erection, construction or alteration of any building or part of any building, or any platform, staging or flooring to be used for standing or seating purposes is commenced, the owner, or his agent or architect, shall submit to the building inspector a full and complete copy of the plans of such proposed work, and a detailed statement, in duplicate, of the specifications on appropriate blanks to be furnished to applicants by the building inspector, giving also the location, the proposed use of the building or structure, and the estimated cost of the same, which shall be accompanied with a statement in writing, duly sworn to, giving the full name, and residence (street and number) of the owner, or of each of the owners of said building, or proposed building, platform, staging or flooring. If such erection, construction or alteration is proposed to be made by any other person than the owner or owners of the land in fee, the person or persons intending to make such erection or alteration shall accompany said detailed statement of the specifications, and copy of the plans, with a statement in writing, sworn to as aforesaid, giving the full name and residence (street and number) of the owner or owners of the land, and also of every person interested in said building or proposed building, platform, staging, or flooring, either as owner, lessee, or in any representative capacity. Such statements may be made by the agent or architect of the person or persons hereinbefore required to make the same, and any notice served upon such agent or architect by the building inspector shall be binding upon the principals. Said sworn statement and detailed statement and copy of the plans shall be kept on file in the office of the building inspector, and the erection, construction or alteration of such building, platform, staging or flooring or any part thereof, shall not be commenced or proceeded with, until said statement and plans shall have been so filed, and approved by the building inspector, and a permit issued by him therefor. Any permit so issued, but under which no building work is commenced within one year from the time of issuance, shall expire by limitation. But the inspector may, in his discretion, and for reasons to be stated in writing, by the applicant, and filed with the plans and detailed statement, dispense with the making of said sworn statement in any case. Nothing in this section shall be construed to prevent the building inspector from granting his approval for the erection of any part of a building where plans and detailed statements have been presented for the same before the entire plans and detailed statements of said building have been submitted. Ordinary repairs may be made without notice to the building inspector, but such repairs shall not be construed to include the cutting away of any stone or brick wall, or any portion thereof, the removal or cutting of any beams or supports, or the removal, change or closing of any staircase. Id., §32.

**Powers of the building inspector; Board of examiners.**

53. The building inspector shall have power (except as herein otherwise provided) to pass upon any question relative to the

mode, manner of construction, or materials to be used, in the erection or alteration of any building or other structure provided for in this ordinance, to make the same conform to the true intent and meaning of the several provisions of this ordinance. He shall also have power to vary or modify the provisions of this ordinance, upon application to him therefor in writing, by an owner of such building or structure, or his representative, where there are practical difficulties in the way of carrying out the strict letter of this ordinance, so that the spirit of the law shall be observed, the public safety secured and substantial justice done, but no deviation shall be permitted unless a record of the same shall be kept by the said building inspector, and a certificate be first issued to the party applying for the same. In cases in which it is claimed by an owner, in person or by his representative that the provisions of this ordinance do not directly apply, or that an equally good or more desirable form of construction can be employed in any specific case than that required by this ordinance, but a permit for which has been refused by the building inspector, then such person shall have the right to present a petition to the building inspector, together with a deposit of fifteen dollars, requesting the appointment of an examining board, and thereupon the building inspector shall appoint a disinterested and competent architect or builder, the applicant shall appoint a second, and the two so chosen shall select a third. The said board of examiners shall take the usual oath of office before entering upon the performance of their duties. They shall meet in the office of the building inspector, and the applicant, or his representative, or both, may appear before said board and be heard. The said board shall consider such petition, and as soon as practicable, render a decision thereon. The said board of examiners are hereby authorized and empowered to grant or reject such petition and the decision of a majority of them, reduced to writing, and addressed to the building inspector, shall be final and conclusive. If such decision is favorable to said petitioner, a certificate shall be issued by the building inspector in accordance therewith. Each of the three examiners shall receive for his services five dollars from the money deposited with the building inspector for that purpose. Id., §33.

**Penalty for violation of this ordinance.**

54. The owner or owners of any building, or part thereof, upon which any violation of this ordinance may be placed, or shall exist, and any architect, builder, carpenter or mason who may be employed or assist in the commission of any such violation, and any and all persons who shall violate any of the provisions of this ordinance, or fail to comply therewith, or any requirement thereof, or who shall violate or fail to comply with, any order or regulation made thereunder, or who shall build in violation of any detailed statement of specifications or plans, submitted or approved thereunder, or of any certificate or permit issued thereunder, shall severally, for each and every such violation or non-compliance, respectively, forfeit and pay a penalty in

the sum of fifty dollars, except that any such person who shall violate any of the provisions of this act as to the construction of chimneys, fire-places, flues, hot-air pipes and furnaces, or with reference to the framing or trimming of timbers, girders, beams or other wood work proximate to chimney flues or fire-places, shall forfeit and pay a penalty in the sum of one hundred dollars. But if any said violation shall be removed, or be in process of removal, within ten days after the service of a notice as hereinafter prescribed, the liability for such penalty shall cease, and said building inspector shall discontinue any action pending to recover the same, upon such removal, the completion thereof being made within a reasonable time. Any and all of the aforementioned persons, who having been served with a notice as hereinafter prescribed, to remove any violation, or comply with any requirement of this act, or with any order or regulation made thereunder, shall fail to comply with said notice within ten days after such service, or shall continue to violate any requirement of this ordinance in the respect named in said notice, shall pay a penalty of one hundred dollars. Id., §34.

**Qualifications of the building inspector; Right to enter buildings, &c.**

55. Building inspector shall be a competent architect or builder of at least seven years' practice. He shall be a man of good character, capable of writing a fair hand, and able to make out with clearness his reports, and no person shall serve as or be appointed to office as an inspector of buildings who is deficient in these qualifications. It shall not be lawful for any officer or employe in any department or bureau of buildings to be engaged in conducting or carrying on business as an architect, civil engineer, carpenter, iron worker, mason or builder. Any inspector of buildings for any neglect of duty, or omission to properly perform his duty, or violation of rules, or neglect or disobedience of orders, or incapacity, or absence without leave, may be punished by the building inspector by forfeiting and withholding pay for a specified time, or by suspension from duty with or without pay; but this provision shall not be deemed to abridge the right to remove or dismiss any such inspector. All the officers appointed under this ordinance shall, so far as may be necessary for the performance of the respective duties, have the right to enter any building or premises in said city. Id., §35.

**Suit brought, how.**

56. All suits or proceedings instituted for the enforcement of any of the provisions of this act, [sic] or for the recovery of any penalty thereunder, shall be brought in the name of the city, by the city solicitor, to whom all notices of violation shall be returned for prosecution, and it shall be his duty to take charge of the prosecution of all such suits or proceedings, collect and receive all moneys that may be collected upon judgments, suits or proceedings so instituted, or which may be paid by any parties who have violated any of the provisions of this ordinance, and upon settlement of judgment and removal of violation thereunder, execute

satisfaction therefor. He shall, quarterly, render to the city treasurer an account of all penalties and all other money, including costs, received by him, together with his bill for all necessary disbursements incurred or paid in said suits, and shall pay over quarterly the amounts of such penalties and costs so collected to the city treasurer as a fund for the use and benefit of the said department or bureau of buildings, as the case may be, for the purpose of paying any expense incurred by said department or bureau and also for the purpose of carrying into effect any order or precept issued by any court or judge or justice thereof in the ordinance named, to the said department or bureau of building inspector, and upon the requisition of said department, bureau or building inspector, said city treasurer shall pay such sum or sums as may be allowed and taxed by any court of record, or a judge or justice thereof, for such purposes, as far as the same may be in his hands. By city solicitor, as in this ordinance used, is intended the officer or person who under existing laws, is authorized to appear for and represent the city, or its municipal departments, as attorney, in legal proceedings in behalf of or against such city or municipal departments. By city treasurer, as in this ordinance used, is intended the chief financial officer of the city, by whatever title designated in existing ordinances, and by the chief engineer is intended the officer of the fire department performing the duties of the chief engineer. Id., §36.

**Correction of abuses by contractors or builders.**

57. Whenever the building inspector is satisfied that any building or structure or any portion thereof, the erection, construction, or alteration of which is regulated, permitted or forbidden by this ordinance, is being erected, constructed or altered, or has been erected, constructed or altered, in violation of, or not in compliance with, any of the provisions or requirements of this ordinance, or in violation of any detailed statement of specifications or plans submitted and approved thereunder, or of any certificate of permit issued thereunder, or that any provisions or requirements of this ordinance, or any order or direction made thereunder has not been complied with, said city solicitor, upon notice from the building inspector, may institute any appropriate action of proceedings, at law or in equity, to restrain, correct or remove such violation, or to restrain or correct the erection or alteration of, or to require the removal of, or to prevent the occupation or use of the building or structure erected, constructed or altered, in violation of, or not in compliance with any of the provisions of this ordinance, or with respect to which the requirements of this ordinance, or of any order or direction made pursuant to any provisions contained in this ordinance, shall not have been complied with. In any such action or proceeding said city solicitor may apply to the court or to a judge or justice thereof, for an order enjoining and restraining all persons from doing, or causing or permitting to be done, any work in or upon such building or structure, or in or upon such part thereof, as may be designated

in said affidavit, or from occupying or using said building or structure, or such portion thereof as may be designated in said affidavit, for any purpose whatever, until the hearing and determination of said action. Id., §37.

**Notice as to unsafe buildings.**

58. All notices of the violation of any of the provisions of this ordinance, and all notices directing anything to be done, required by this ordinance, and all other notices that may be required or authorized to be issued thereunder, including notice that any building, structure, premises, or any part thereof, is deemed unsafe or dangerous, shall be issued by the building inspector and shall have his name affixed thereto, and may be served by any officer or employe of any department or bureau of buildings, or by any person authorized by the same. All such notices to enforce compliance with any provision or requirement of this ordinance, may be served by delivering to and leaving a copy of the same with any person or persons violating or who may be liable under any of the several provisions of this ordinance, or to whom the same may be addressed, and if such person or persons cannot be found after diligent search shall have been made for him or them, then such notice or order may be served by posting the same in a conspicuous place upon the premises where such violation is alleged to have been placed or exist, or to which such notice or order may refer, or which may be deemed unsafe or dangerous, which shall be equivalent to a personal service of said notice or order upon all parties for whom such search shall have been made. Such notice or order shall contain a description of the building, premises or property upon which such violation shall have been put or may exist, or which may be deemed unsafe or dangerous, or to which such notice or order may refer. If the person or persons, or any of them, to whom said notice or order is addressed, do not reside in the state of Pennsylvania, and have no known place of business therein, the same may be served by delivering to and leaving with such person or persons, or either of them, a copy of said notice, or if said person or persons cannot be found within said state after diligent search, then the posting a copy of the same in manner as aforesaid and depositing a copy thereof in the postoffice of any such city, inclosed in a sealed wrapper addressed to said person or persons at his or their last known place of residence, with the postage paid thereon; and said posting and mailing of a copy of said notice or order shall be equivalent to a personal service of said notice or order. Id., §38.

**Remedying the evils of unsafe or dangerous buildings.**

59. Any building or buildings, part or parts of a building, staging or other structure, that from any cause may now be, or shall at any time hereafter become dangerous or unsafe, may be taken down and removed, or made safe and secure, in the manner following: Immediately upon such unsafe or dangerous building or buildings, or part or parts of a building, staging or structure being so reported by any of the officers of said department or

bureau of buildings, as the case may be, the same shall be immediately entered upon a docket of unsafe buildings, to be kept by said building inspector; and the owner, or some one of the owners, executors, administrators, agents, lessees, or any other person or persons who may have a vested or contingent interest in the same, may be served with a printed or written notice containing a description of the premises or structure and the parts deemed unsafe or dangerous, requiring the same to be made safe and secure, or removed, as the same may be deemed necessary by the said building inspector, which said notice shall require the person or persons thus served to immediately certify to the building inspector his or their assent or refusal to secure or remove the same. Id., §39.

**Proceedings for removal of unsafe buildings.**

60. If the person or persons so served with notice shall immediately certify his or their assent to the securing or removal of said unsafe or dangerous building, premises or structure, he or they shall be allowed until one o'clock p. m., of the day following the service of such notice in which to commence the securing or removal of the same; and he or they shall employ sufficient labor and assistance to secure or remove the same as expeditiously as the same can be done. But upon his or their refusal or neglect to comply with the requirements of said notice so served, a further notice shall be served upon the person or persons heretofore named, and in the manner heretofore prescribed, notifying him or them that a survey of the premises named in said notice will be made at the time and place therein named, which time shall not be less than twenty-four hours or more than three days from the time of the service of the said notice, by three competent persons, each of whom shall be a practical builder or architect, and one of whom shall be the building inspector, another of whom shall be appointed by the person or persons thus notified, and the third by the two thus chosen; and that in case the said premises shall be reported unsafe or dangerous by said surveyors, or a majority of them, the city solicitor shall take the proper legal proceedings to secure the removal of the said premises. If the person or persons on whom said notice is served, refused or neglected to appoint a surveyor, within time fixed in the notice, the building inspector shall appoint a builder or architect to act for the person or persons so served with notice, and said two persons may make the survey, and in case of disagreement they shall appoint a third person, a builder or architect, to take part in the survey. If the person acting on behalf of any department or bureau of buildings and the surveyor appointed by the person or persons on whom any such notice was served shall neglect or refuse to choose a third person to act upon any survey, within a reasonable time, the building inspector shall designate such third person. A copy of said report of survey shall be posted on the building by the person holding the survey, immediately on their signing the same. The architect or builder appointed by the building inspector when the

person or persons notified neglect or refuse to appoint, as also the architect or builder who may serve as a third surveyor on any survey called in accordance with the provisions of this ordinance, shall each receive the sum of ten dollars, to be paid by the city treasurer upon the warrant of the building inspector, and a cause is hereby created for the benefit of said city against the owner or owners of said building, staging or structure, and of the lot or parcel of land in which the same is situated, for the amount so paid with interest, which shall be prosecuted in the name of the city. The amount so collected shall be paid over to the city treasurer in reimbursement of the amount paid by him as aforesaid. Id., §40.

**Accident, in case of, what to be done.**

61. In case of the falling of any building or part of any building where persons are known or believed to be buried under the ruins thereof, it shall be the duty of the fire department to cause an examination of the premises to be made for the recovery of the bodies of the killed and injured. In case there shall be, in the opinion of the building inspector, actual and immediate danger of the falling of any building or part thereof, so as to endanger life or property, said building inspector shall cause the necessary work to be done to render said building or part thereof temporarily safe, until the proper proceedings can be taken, as in the case of an unsafe building, provided for in this ordinance. For the aforesaid purposes, the said fire department, or the building inspector, as the case may be, shall employ laborers and materials as may be necessary to perform said work as speedily as possible. Id., §41.

**Plans and plumbing.**

62. There shall be a separate plan for each building, public or private, and the said plan shall be covered by such rules as the sanitary committee shall adopt by and with the approval of the select and common councils for the regulation of plumbing in buildings. Id., §42.

**Penalty.**

63. In case of the violation of any one or all the foregoing sections and regulations by any person or persons, firm or corporation, by or upon whom any duty is herein described or imposed, he, or they, or it so offending shall be liable to a fine not exceeding the sum of fifty dollars for each and every offense, to be recovered before any alderman within said city in a summary manner, and such person or persons, firm or corporation shall not be permitted to connect with any public sewer, or with any water main, until such plans, specifications and drawings, and work done in accordance therewith shall have been approved by the inspector. Id., §43.

**Repeal.**

64. All ordinances or parts of ordinances inconsistent with this ordinance be and the same are hereby repealed. Id., §44.



**Dwelling houses; Construction of certain, regulated.**

65. That the construction and erection of all dwelling houses not exceeding twenty (20) feet in width, sixty-five (65) feet in depth and three (3) stories in height, shall be subject to the following regulations, viz:

**Excavations.**

Clause 1. The excavations for said dwelling houses shall not exceed seven (7) feet six (6) inches below the grade level, and shall be at least six (6) inches wider on all sides, than the width and depth of the building or buildings to be erected. After the cellar walls have been built the said space of six inches (6 in.) shall be filled with clean earth, well rammed and raised so as to shed surface water.

**Foundation walls and masonry.**

Clause 2. The foundation walls shall be of sufficient width and strength to carry the weight intended to be placed thereon; and if the ground is not firm enough to bear the weight, then concrete footings shall be made, not less than ten (10) inches thick, extending six (6) inches beyond each side of the wall, the said concrete to be composed of one part of Portland cement, three parts of sharp sand and five parts of broken stone of a size to pass through a two (2) inch ring; the said component parts to be well mixed and rammed until the water appears on the surface thereof. If it is found necessary by reason of the condition of the soil to increase the width and thickness of said footings, the same shall be so increased by order of the building inspector. All foundation walls shall extend at least four (4) inches below the natural cellar bottom. If the walls are of stone they shall be of such construction as to have a one-third lap alternately, and have a through stone at least every two (2) feet in height, and every five (5) feet in length of the wall; and in no case shall a stone be placed otherwise than on its broadest bed. All stone walls must be laid up to two lines. Walls constructed with edged stone shall be removed on the order of the building inspector. The mortar for stone work shall be composed of sharp river sand mixed with fresh lime, well burned, in proper proportions so as to make a good mortar. No stone wall shall be built of a less thickness than eighteen (18) inches.

**Thickness of walls and brick work.**

Clause 3. Brick walls shall be of the following dimensions above the basement: One-story buildings nine (9) inches thick; two-story buildings, nine (9) inches thick; three-story buildings, the walls of the first story shall be thirteen (13) inches thick; the second and third stories shall be nine (9) inches thick; the height of each story shall not exceed ten (10) feet for the first story and nine (9) feet for the second and third stories. When houses are built in rows the partition wall shall be nine (9) inches thick, and shall be built to the full height of the buildings, except houses fifteen (15) feet or less in width, which may have stud partition walls every other house; but no stud partition walls shall be used

within the fire limits of the city and all such stud partitions and divisions shall be filled with brick at intersections of joists, and whenever there are more than four houses built in one block, the division walls of every fourth house shall extend at least eight (8) inches above the roof and be capped with tin. Whenever houses are built three stories high, the rear wall of the third story, if made of brick, shall be carried upon an iron girder of sufficient strength to safely carry the weight to be placed thereon; if built of frame it shall be carried on a girder of not less than two pieces of three (3) inches by eight (8) inches, over a span not exceeding fifteen (15) feet, and not less than two pieces three (3) inches by ten (10) inches when said span does not exceed twenty (20) feet. The rear of said walls shall in all cases be covered with slate. The walls of all brick buildings when the first two stories are brick, and the third story frame covered with slate, shall be nine (9) inches thick, provided the building does not exceed eighteen (18) feet in width, and the stories do not exceed ten (10) feet and nine (9) feet, respectively in height; but where the buildings exceed the above dimensions the walls of the first story shall be at least thirteen (13) inches thick.

**Floors; Joists.**

Clause 4. The floor joists of said dwellings shall be two (2) inches by eight (8) inches, and sixteen (16) inches on centers whenever the clear span does not exceed twelve (12) feet six (6) inches. Houses over twelve (12) feet wide, and not exceeding sixteen (16) feet in width shall have joists two (2) inches by eight (8) inches and sixteen (16) inches on centers, supported by a girder of not less than six (6) inches by eight (8) inches carried on brick piers not less than thirteen (13) inches square, and not over nine (9) feet from center to center. All buildings over sixteen (16) feet and not exceeding twenty (20) feet in width shall have floor joists two (2) inches by ten (10) inches and sixteen (16) inches on centers with girders six (6) inches by eight (8) inches, and piers thirteen (13) inches by seventeen (17) inches. All joists must be cross-bridged at least every eight (8) feet in their length. Ceiling joists for buildings not exceeding fifteen (15) feet in width shall be two (2) inches by six (6) inches and sixteen (16) inches on centers; those not exceeding twenty (20) feet in width shall have not less than two (2) inches by eight (8) inches and sixteen (16) inches on centers. Rafters for the former shall be two (2) inches by eight (8) inches and two (2) feet on centers, and rafters for the latter shall be two (2) inches by eight (8) inches and two (2) feet on centers, trussed with one (1) inch by six (6) inches at each alternate rafter and ceiling joist. No studding shall be set more than sixteen (16) inches on centers. When brick walls are intended to be stripped, white pine one-half ( $\frac{1}{2}$ ) inch by two (2) inches shall be walled into the brick work to nail the furring strips thereto.

**Flues.**

Clause 5. In the construction of flues particular care shall be taken. When they are composed of brick the joints shall be filled with mortar and tied perfectly. Trimmers and joists shall be at least eight (8) inches from the inside of the flue. This applies to both smoke and hot air flues. Where hot air flues of tin come in close proximity with furring strips or studding, such flues shall be thoroughly covered with asbestos, and both sides of the studding shall be covered with wire lath or expanding metal lath, and shall in all cases be kept away from the studding or strips at least one (1) inch on all sides.

**Material of dwelling houses.**

Clause 6. All dwelling houses hereafter constructed shall be built either wholly of brick or wholly of frame, except the partition walls as provided in Clause 3. This regulation shall apply to the construction of brick fronts to frame houses, and frame backs to brick houses; but it is not intended to prevent the building of slate mansards on brick houses.

**Latch boards prohibited.**

Clause 7. In the construction of frame buildings latch boards or joist bearers composed of boards shall not be used.

**Work, how to be done.**

Clause 8. The work on all buildings hereby regulated shall be done in the best workmanlike manner.

**Party walls, how regulated.**

Clause 9. The city engineer is hereby authorized and directed to enter upon the land or lands, lot or lots of any person or persons, at all reasonable hours, for the purpose of setting out the foundations and regulating the walls to be built between party and party, as to the breadth and thickness thereof, which foundation walls shall be laid equally upon the lands of the persons between whom such party wall is to be made, and the first builder shall be reimbursed one moiety of the charge of such party wall, or so much thereof as the next builder shall have occasion to make use of, before such next builder shall or may use or break into said wall.

**Front porches, how regulated.**

Clause 10. No dwelling houses shall have a porch<sup>1</sup> built or attached thereto extending beyond the building line of any highway in the city; but steps may be constructed to the entrances of such dwelling houses, and may extend a distance of six (6) feet on sidewalks fourteen (14) feet wide or over, and four (4) feet on sidewalks from twelve (12) to fourteen (14) feet in width, and two (2) feet six (6) inches on sidewalks less than twelve (12) feet in width.<sup>1</sup>

**Roof construction.**

Clause 11. All floor joists, roof or other timbers carrying weight shall bear on the partition, outside or party walls. In

<sup>1</sup> See 12, ante.

three-story brick buildings the ceiling joists shall in all cases be anchored to the rafters at both gable walls with boards not less than one (1) inch by six (6) inches nailed to the ceiling joists and rafters. 7 Nov., 1904. D, 159, §1.

**Penalty.**

66. Any person or persons who shall violate any of the provisions of this ordinance, shall upon conviction thereof before the mayor or any alderman of the city, be subject to a fine not exceeding fifty dollars (\$50) for each and every offense, and in default of the payment thereof shall be imprisoned in the jail of Dauphin county for a period not exceeding thirty (30) days; and such person or persons shall not be permitted to connect said buildings with any public sewer, or with any water main until all the work shall be done in accordance with the provisions of this ordinance, and the same approved by the building inspector. Id., §2.

**Repeal.**

67. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. Id., §3.

**Obstructing streets with building materials.**

68. That all and every person or persons who now have brought, or may hereafter bring materials<sup>1</sup> into any public street, lane or alley in the said city, for the purpose of building, shall not occupy more than one-third of any of the streets, and in lanes or alleys not more than six feet on one side; and such materials not to remain longer than six months, under the penalty of five dollars per week, upon notice and conviction thereof. 22 March, 1861. 1, 26, §11.

**Shingled roofs not to be covered with tin.**

69. That hereafter it shall be unlawful for any one to cover any building in the city containing a shingle roof with a tin, slate, iron, steel or any other kind of a metal roof, unless the shingles be previously removed completely. 12 March, 1898. B, 369, §1.

**Penalty.**

70. Any one violating this ordinance shall, upon conviction thereof before the mayor or any alderman of the city, pay a fine of not less than ten dollars nor more than one hundred dollars, and in default thereof shall undergo imprisonment in the county jail not exceeding thirty days. Id., §2.

<sup>1</sup> See Streets, 81.

## Building Inspector.

[See BILLBOARDS—BUILDINGS—HIGHWAY DEPARTMENT, 8.]

## Cellar Doors.

[See BUILDINGS—PAVEMENTS AND CURBS—STREETS—VAULTS AND AREAS.]

### Cellar doors regulated.

1. That all cellar doors shall have the cheeks thereof constructed, so that they shall not have a greater descent of grade than one inch and a half to twelve inches in length, extending from the house or building; and if any person shall refuse or neglect to conform herewith, he shall forfeit and pay the sum of five dollars, and one dollar for every day thereafter, until the aforesaid regulation shall be conformed to. 10 Dec., 1862. 1, 95, §7.

## Cesspools.

[See BOARD OF HEALTH, RULES 1, 7, 8, 38 AND 43.]

Bond from persons in business of removing contents of, 11.  
Bond, when may be forfeited, 18.  
Cesspools, privies, &c., placing of, 1.  
Cesspools regulated, 2.  
Cleaning to be done when notified, 5.  
Cleaning, how to be done, 8, 10.

Drainage, &c., not to run in, unless sewered, 8.  
Hours for cleaning, 9.  
Open conveyances for cleaning, prohibited, 10.  
Penalties, 4, 6, 14.  
Permit for, 12.  
Repeal, 7, 15.

Privies not to be erected in the interior of lots nearer than eighteen inches of neighbor's lot.

1. That no person or persons shall hereafter build or erect any privy, vault or sink, in the interior of his, her or their lot or lots, within the city, nearer to the line of the adjoining lot of his neighbor than eighteen inches, under the penalty of twenty dollars for any violation of this section; and in any case of conviction under this section, before the mayor or any alderman of this city, it is hereby made his duty to issue his warrant to the supervisor of the respective ward to have the evil or nuisance complained of removed, at the expense of the offender or offenders, as the case may be; *Provided*, That this section shall not apply to any case where the privy is connected with a sewer. 13 March, 1861. 1, 26, §21.

### Cesspools regulated.

2. That all privy vaults or cesspools in proximity of a sewer that runs along the rear or sides of the premises upon which such privy vault is located, shall be constructed of brick, and cemented so as to prevent any of the contents of such vault or cesspool from leaking through, and shall be required to connect with such sewer, and to run the contents of the same into said sewer. All such vaults shall have a depth and width to be fixed by the joint committee on sanitary affairs. 5 Dec., 1885. 4, 79, §1.

Drainage not to run into cesspool unless it is constructed upon a sewer.

3. No person or persons shall so construct any privy vault or cesspool, except in the manner aforesaid, nor shall any pipes be run into such cesspool to carry off surface water or any other

drainage, unless such vault or cesspool be constructed upon a sewer as herein prescribed. Id., §2.

**Penalty.**

4. That all persons failing to comply with the provisions of this ordinance, or shall violate any thereof, shall, upon conviction before the mayor or any alderman, be fined in a sum not exceeding twenty-five dollars (\$25.00). Id., §3.

**Cesspools, when and how to be cleaned, when owner is notified.**

5. That from and after the passage of this ordinance, the owner or owners of premises upon which any cesspool is located, shall cause the same to be emptied and cleaned within ten days after notification thereof from the mayor, who shall promptly cause such notice to be served by one of the officers of the police force, upon the information of any inhabitant of the city; and the apparatus and appliance used in emptying and conveying the contents of cesspools between the first day of April and the first day of November, shall be such as shall emit no offensive or obnoxious odors, and leave no deposits about the said premises, or on the streets or avenues of the city. 13 March, 1882. 3, 424, §1.

**Penalty.**

6. That for every failure to comply with the regulation established by this ordinance, and for every violation thereof, the offender shall, upon conviction thereof before the mayor or any alderman of the city, be fined not less than five nor more than twenty dollars. Id., §6.

**Repeal.**

7. All ordinances or parts thereof inconsistent with this ordinance are hereby repealed. Id., §7.

**Cesspools, how to be cleaned.**

8. That the removal of night-soil and other refuse from privy vaults and other places within the City of Harrisburg, shall be done in the manner and by the persons set forth in this ordinance, and in no other manner. 11 Sept., 1890. 2, 386, §1.

**Hours for cleaning.**

9. All night-soil and other refuse from privy vaults shall be removed therefrom between the hours of eleven p. m. and four o'clock a. m., and at no other time, unless done by the use of an odorless excavator, or by similar apparatus which has received the approval of the sanitary committee of councils. Id., §2.

**Air-tight conveyances to be used; No droppings.**

10. The aforesaid night-soil and other refuse shall be removed only in air-tight conveyances, so that no noisome odors may escape. The removal thereof in open conveyances, causing noisome odors to escape, and allowing said filth to drop on the streets or avenues of this city, is hereby prohibited. Id., §3.

**Person to give bond.**

11. No person shall engage in the business of cleaning privy vaults and removing night-soil without first filing with the city

solicitor a bond in the sum of twenty-five dollars, conditioned upon the faithful and explicit compliance with all the provisions of this ordinance. Id., §4.

**Permit to be received.**

12. All persons, having filed a proper bond, shall apply to the secretary of the sanitary committee and receive a permit, stating location of cesspool, and where the same is to be deposited, for which they shall pay the sum of twenty-five cents, which shall be paid into the city treasury. Id., §5.

**Bond may be forfeited.**

13. Any one under such bond found guilty of violating any of the provisions of this ordinance, shall forfeit said bond to the city, which shall be collected before the mayor or any alderman as other debts are now collectible by law. Id., §6.

**Penalty.**

14. Any person who may hereafter be convicted of the offense of engaging in the business of removing night-soil without first filing his bond, may, at the discretion of the mayor or alderman convicting, be sentenced to pay a fine not exceeding fifty dollars. Id., §7.

**Repeal.**

15. All ordinances and parts of ordinances inconsistent herewith are hereby repealed. Id., §8.

## Chief Engineer.

[See BUILDINGS, 48—EXPLOSIVES AND COMBUSTIBLES—FIRE DEPARTMENT.]

## City Clerk.

[See CITY TREASURER—HARRISBURG FIREMAN'S RELIEF ASSOCIATION, 2—OFFICERS AND EMPLOYEES—WARRANTS.]

Bond (\$5,000) to be given, 4.  
Clerk of common council to be, 5.  
Duties, 2, 8.  
Office hours, 5.

Repeal, 6.  
Term of office, 1.  
When elected, 1.

**When elected; Term.**

1. That the select and common councils in joint convention on the first Monday in October, 1893, and on the same day every four years thereafter elect by the votes of a majority of members of both councils present and voting, one person duly qualified to be the city clerk, who shall hold his office four years and until his successor is elected and qualified. 15 March, 1893. A, 265, §1.

**Duties.**

2. It shall be the duty of the city clerk to have the custody of the seal of the city and attest it when affixed to any and all documents executed by the city. He shall act as secretary to the com-

mittees of the two councils, on finance, appropriation and as clerk of the board of appeals provided for by section 5 of article 15 of the act of May 23, 1889, and keep a journal of the proceedings thereof. He shall record and certify the corrections of all ordinances in a book to be styled the ordinance book, which shall be provided by the city and kept in his office. He shall from time to time, furnish the chairman of each joint or standing committee, of the city councils, with the names of the members of such committee, as well as such other matters as shall be within his cognizance or his custody as such city clerk; he shall furnish the city controller with a certified copy of all ordinances, resolutions or actions of councils, pertaining to the expenditures of money in the various departments of the city as soon as practicable. Id., §2.

**Duties.**

3. He shall furnish to all heads of departments of the city government, and to the chairman of the committees of the city councils, certified copies of such votes, resolutions or ordinances as relate to their respective departments or committees. He shall act as clerk of the joint standing committee on sanitary affairs of the said councils, and keep a journal of the acts and proceedings and votes of such standing committee; and he shall certify to the correctness of the account sheets and pay rolls before the same are approved by the committee on sanitary affairs. He shall perform all such duties as may be prescribed by the councils or either branch thereof, and such other clerical duties as are not defined as belonging to the office of the city controller or city solicitor, and he shall superintend all printing or advertising of whatever kind ordered by the councils, and shall prepare and cause to be printed the journals of the said councils, whenever directed by councils to do so, and shall make out under his hand and the seal of the City of Harrisburg, certificates of election or appointment of all the officials elected or appointed by the councils or mayor, and deliver the same to the party so elected or appointed immediately after they have been chosen and qualified. Id., §3.

**Bond (\$5,000) to be given.**

4. The city clerk shall give bond to the city in the sum of five thousand (5,000) dollars, with two sufficient sureties to be approved by the city solicitor, conditioned for the faithful performance of his duties; and before he enters upon the duties of his office he shall take and subscribe an oath or affirmation before the mayor to sustain the constitution of the United States and of this commonwealth, and honestly to keep an account of all public moneys and property entrusted to his care, and to discharge the duties of said office with fidelity. Id., §4.

**Clerk of common council; Office hours.**

5. The said city clerk shall be clerk of common council during the term for which he is elected as said city clerk. He shall have his office in the common council chamber, and said office shall be kept open for the transaction of public business between the hours of 9 a. m. and 4 p. m.; *Provided*, That during the months of



July, August and September in each and every year the office shall close at 12 o'clock noon on Saturday. Id., §5.

**Repeal.**

6. All ordinances or parts thereof inconsistent with this ordinance be and the same are hereby repealed. Id., §7.

## City Controller.<sup>1</sup>

[See CONTRACTS.]

## City Detectives.

Compensation (§900), 2.  
Duties, 1.

Number to be appointed, 1.  
Repeal, 8.

**Two to be appointed; Duties.**

1. That his honor the mayor be and he is hereby authorized to appoint from the regular force of patrolmen two competent men who shall be styled city detectives, whose duties shall be such regular or special police work as may from time to time and at all times be designated or directed by the mayor or the chief of police. 1 June, 1906. D, 616, §1.

**Compensation.**

2. That the compensation of each city detective as hereinabove authorized shall be nine hundred and sixty dollars per annum, payable in semi-monthly instalments of forty dollars each. Id., §2.

**Repeal.**

3. All ordinances or parts of ordinances inconsistent with this ordinance, be and the same are hereby repealed. Id., §3.

## City Digest.

Appropriation for, 2.  
Cost of, how paid, 8.  
Digest, what to be included in, 1.

Distribution and sale of, see after  
Preface.  
Number of copies, 1.

**Digest to be compiled.**

1. That a digest of the laws and ordinances of the city now in force, and such only as have a permanent value, pertaining to the City of Harrisburg, together with the decisions of the courts thereon, be and the same is hereby authorized and directed to be compiled and published in five hundred (500) neatly bound volumes, under the supervision of the city clerk and the city solicitor. 31 May, 1902. C, 248, §1, amended 25 March, 1905. D, 335, §1.

**Appropriation for.**

2. That the sum of \$2,500, or so much thereof as may be necessary, be and the same is hereby appropriated out of the funds to

<sup>1</sup> See 5 April, 1878. P. L. 552, §9.

be paid into the treasury by the Paxtang Electric Company, as provided in an ordinance, entitled "An ordinance giving permission to the Paxtang Electric Company of Harrisburg to occupy the highways of the City of Harrisburg with its poles, wires and conduits for the purpose of supplying electrical light, heat and power; to construct, maintain and operate the same; requiring said company to pay \$10,000 cash bonus to the city for rights, etc., herein granted, and to deposit with and forfeit to said city \$5,000 additional cash under certain conditions," approved the fifth day of March, A. D. 1902, to pay for the cost of the said digest. 31 May, 1902. C, 248, §2.

**Cost, how paid.**

3. That upon the completion of the said digest, and the approval thereof by the city clerk and the city solicitor, the cost thereof shall be paid by a warrant drawn by the city clerk upon the fund designated in section 2 of said ordinance. Id., §3, amended 25 March, 1905. D, 335, §2.

## City Engineer.

[See HOUSE NUMBERS—OFFICERS AND EMPLOYEES—PAVEMENTS AND CURBS—STREETS—WATER AND LIGHTING DEPARTMENT.]

**Penalty for removing stakes, &c.**

1. That if any person shall wilfully pull up, destroy, alter or remove any pin, stake or mark put in the ground or made by the surveyors, of streets, lanes or alleys, for the purpose of marking any survey or regulation made within said city, such person, on conviction thereof before the mayor or any alderman, shall forfeit and pay the sum of ten dollars. 2 Dec., 1862. 1, 74, §11.

## City Hall Fund.

Created, 1.  
Dog tax revenues, &c., appropriated  
to, 2.

Moneys, certain, transferred to, 4.  
Repeal, 8, 5.

**Fund created.**

1. All moneys coming into the city treasury under the provisions of this ordinance shall be kept as a separate fund, to be known as "the dog fund," from which shall be drawn all moneys herein provided to be paid out of the city treasury, and all balances of this fund on hand at the close of each year shall be appropriated to a fund hereby created and to be known as "the city hall building fund." 8 Aug., 1871. 1, 469, §9.

**Dog tax revenues, &c., appropriated to.**

2. That all net revenues realized hereafter from the taxes on dogs, and fines and costs for the violations of the dog ordinances, and all fines and costs for violation of tax ordinances, and all moneys realized from the sale of real estate and personal property belonging to the city not otherwise appropriated, be and the

same are hereby appropriated and set aside to become a part of the separate and special fund, designated and known as the municipal hall fund: 15 March, 1898. B, 377, §1; amended 26 Nov., 1901. C, 136, §1, and 8 July, 1903. C, 591, §1.

**Repeal.**

3. That all ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. 8 July, 1903. C, 591, §2.

**Certain moneys transferred.**

4. That all moneys now in the hands of the city treasurer, or otherwise held, owned or belonging to the said city, pertaining to a certain fund known as the "city hall fund," created by virtue of the provisions of a certain ordinance passed August 5, 1871, approved August 8, 1871, providing that all the net revenues realized in pursuance of the provisions thereof, be set aside as a separate and special fund, to be known as the "city hall fund," and to be used only for the purpose of purchasing a site for a city hall, together with all moneys now in the hands of the city treasurer derived from the sale of the reservoir lots, and known as the reservoir fund, be and the same are hereby transferred to the said "municipal hall fund," and that the same or any part thereof shall not be appropriated nor in any way used for any purpose whatever other than for the purpose of purchasing a site for a "municipal hall." 15 March, 1898. B, 377, §2.

**Repeal.**

5. That all ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. Id., §3.

## City Property.

[See FIRE DEPARTMENT.]

**Taking or injuring city property to be punished.**

1. That any person or persons (unless with the permission of the mayor or fire committee) who shall carry away for private purposes, or aid, or cause the same to be done, any fire engine, ladder, hooks, hose, or any other property belonging to the said city, from the place assigned by the authorities thereof for the keeping the same, or shall in any manner injure or abuse the same, or cause it to be done, except when the same is in public use, or shall occupy and use the market houses, engine houses, or any other property of the said city, for any other purposes than such as are strictly lawful within the said city, or shall wantonly injure and abuse the same, shall, on conviction before the mayor or any alderman of said city, be fined and compelled to pay any sum not exceeding fifty dollars for every such offense. 13 March, 1861. 1, 36, §1.

## City Solicitor.

[See BONDS—CONTRACTS.]

Bond (\$10,000) to be given, 1.  
Repeal, 2.

Salary (\$2,500), 2.

**Bond (\$10,000).**

1. That the bond required by law to be given by the city solicitor for the faithful performance of his official duties shall be in the sum of ten thousand dollars (\$10,000).<sup>1</sup> 10 Feb., 1890. 2, 333, §1.

**Salary (\$2,500).**

2. That from and after the first Monday of May, A. D. 1905, the salary of the city solicitor of the City of Harrisburg shall be two thousand five hundred dollars (\$2,500) per annum. 24 Feb., 1905. D, 253, §1.

**Repeal.**

3. That all ordinances or parts of ordinances in conflict with this ordinance, be and the same are hereby repealed. Id., §2.

## City Tax Collector.

[See TAXATION.]

Bond (\$75,000) to be given, 2.  
City treasurer to be, 1.

Compensation, 3.  
Repeal, 4.

**City treasurer to be collector.**

1. That the city treasurer, by virtue of his office, shall be the collector of all the city taxes assessed or levied in the City of Harrisburg and shall perform the duties prescribed in and be subject to the provisions of the Act of General Assembly, approved the 20th day of June, A. D. 1901. 28 March, 1902. C, 229, §1.

**Bond (\$75,000); Provision.**

2. That the said city treasurer as collector of said city taxes, before entering upon his duties, shall give bond in the usual form to the City of Harrisburg in the sum of seventy-five thousand (\$75,000) dollars, with corporate or at least two sufficient sureties to be approved by councils, conditioned that the city treasurer as collector of taxes shall well and truly collect and pay over or account for, according to law, the whole amount of the taxes charged and assessed in the duplicate which shall be delivered to him during his term of office; *Provided, however,* That he shall be required to give but one bond, which shall include his duties as city treasurer and as collector of city taxes, which bond shall cover his full term of office and shall not in any event exceed the amount of the tax collected by him. Id., §2.

<sup>1</sup> See 5 April, 1873, P. L. 552, §9.

**Compensation.**

3. That beginning with the fiscal year 1902 and every year thereafter until otherwise ordained, the city treasurer shall receive as the collector of city taxes the compensation or commission of one per centum on all city taxes paid him before any penalty has been incurred and five per centum on all city taxes paid him after the penalty has been incurred, and that said compensation for collecting said taxes shall be paid by warrant in accordance with the provisions of the act of assembly hereinbefore referred to. Id., §3.

**Repeal.**

4. That all ordinances or parts of ordinances inconsistent herewith, be and the same are hereby repealed. Id., §4.

## City Treasurer.<sup>1</sup>

[See CITY TAX COLLECTOR.]

Salary (\$1,500), 1.

Repeal, 2.

Salary (\$1,500).

1. That the salary of the city treasurer elected on the third Tuesday of February, 1879, shall be fifteen hundred dollars per annum. 28 Dec., 1878. 3, 215, §1.

**Repeal.**

2. That all ordinances inconsistent herewith are hereby repealed. Id., §2.

## Civic Club.

[See HIGHWAY DEPARTMENT, 5.]

## Clerks of Councils.

[See CITY CLERK—OFFICERS AND EMPLOYES.]

8. Clerk of select council, bond (\$5,000),

1. Clerk of select council, term of office,

8. Clerk of select council, duties, 2.

1. Clerk of select council, when elected,

Clerk of select council, office hours, 3.

1. Repeal, 4.

**Clerk of select council; When elected; Term of office.**

1. That the select council, shall on the second Monday of March, 1894, and on the same day every two years thereafter, elect one person duly qualified to be clerk of the select council, who shall hold his office for the period of two years from the second Monday of March, hereinbefore appointed for the election to take place, for the period of two years, and until his successor is duly elected and qualified. 16 Dec., 1893. A, 429, §1.

**Duties.**

2. It shall be the duty of the clerk of the select council to keep a journal of the acts and proceedings of the select council, and

1 See 5 April, 1873. P. L. 552, §§2, 9.

the select and common councils when in joint convention. He shall have the custody and care of all papers and documents presented to the select council, and shall carefully preserve all such papers and documents as are ordered to be filed, and shall promptly deliver all such papers and documents as shall be referred to any of the committees of councils or to the common council by the select council. He shall also act as secretary of all the standing and special committees, appointed by either the select and common councils or both, except the committees on finance and appropriations and sanitary affairs, and shall perform such other duties as the select council may direct. Id., §2.

**Bond (\$5,000); Office hours.**

3. The clerk of the select council shall give a bond in the sum of five thousand (\$5,000) dollars, with two sufficient sureties, to be approved by the city solicitor, conditioned upon his faithful performance of his duties. He shall have his office in the select council chamber, and said office shall be open for the transaction of public business between the hours of 9 A. M. and 4 P. M. Id., §3.

**Repeal.**

4. All ordinances or parts thereof inconsistent with this ordinance be and the same are hereby repealed. Id., §5.

## Clerk to the Mayor.

Appointed by mayor, 1.  
Office created, 1.

Salary (\$780), 2.  
Under mayor's orders, 2.

**Office created.**

1. That the office of clerk to the mayor be and the same is hereby authorized and created, and that said clerk shall be under the authority of and subject to the orders of the mayor, after his appointment shall have been duly confirmed by select council. 28 Sept., 1905. D, 426, §1.

**Salary (\$780).**

2. That the compensation of said clerk shall be at the rate of seven hundred and eighty dollars (\$780) per annum, payable as other officers and employees of the executive department are now authorized to be paid. Id., §2.

## Contracts.

[See BONDS—STREETS—SUPPLIES—WATER AND LIGHTING  
DEPARTMENT.]

Awarding of contracts, 1.  
Proposals for, 1.

Contracts to be preserved in office of  
city controller, 2.

**Contracts; Proposals.**

1. That whenever the grading, paving or macadamizing of any street or avenue, or the construction of any sewer is contemplated,

the engineer shall, at the instance of councils, make the necessary estimate, map or plan, &c., as provided in said act of assembly, and report the same to the highway committee, and said committee shall thereupon advertise for proposals for supplying all the labor and material and executing the work in conformity with specification to be prepared by the city engineer; each bidder shall be required to state the price at which he will take the contract in a lump sum and not by items, and the contract shall be awarded to the lowest responsible bidder, conditioned upon and subject to the passage and approval of an ordinance ordering the work and making a levy of assessments to pay for the same. 29 April, 1887. B, 2, 217, §1.

To be preserved in office of city controller.

2. That hereafter all contracts shall be deposited and preserved in the office of the city controller. 29 Jan., 1892. A, 7, §2.

## Coroner.

[See BOARD OF HEALTH, RULE 32.]

## Councils.

[See SCHOOL DIRECTORS.]

Stated meetings, 1.

Repeal, 2.

Stated meetings.

1. That in accordance with Article VI, section 5, of the act of assembly, approved May 23, A. D. 1889, entitled "An ordinance for the incorporation and government of cities of the third class," the stated meetings of the select and common councils shall hereafter be held on the first and third Mondays of each month at 7:30 o'clock P. M., except during the months of July, August and September, when the select and common councils shall meet on the first Monday in July, the last Monday in August and the last Monday in September, at 7:30 o'clock P. M. 4 Oct., 1904. D, 184, §1.

Repeal.

2. That all ordinances or parts of ordinances inconsistent herewith, be and the same are hereby repealed. Id., §2.

## Dam in Susquehanna River.

[See BOARD OF PUBLIC WORKS, 4.]

## Dead Carcasses.

[See NUISANCES.]

## Dogs.

[See ANIMALS AT LARGE.]

## Drainage.

[See CESSPOOLS—SEWERS.]

## Electric Companies.

[See ELECTRIC LIGHTING APPARATUS—POLES AND WIRES.]

Excelsior Electric Company, 3.	Paxtang Electric Company, 6.
Harrisburg Electric Company, 4.	Pennsylvania Electric Light Com-
Harrisburg Electric Light Company, 2.	pany, 1.
Harrisburg Light, Heat and Power	
Company, 4, 5.	

### Pennsylvania Electric Light Company.

1. Granting permission to the Pennsylvania Electric Light Company to occupy the streets and avenues of the city with poles and wires. 20 March, 1883. 3, 480.

### Harrisburg Electric Light Company.

2. Granting permission to the Harrisburg Electric Light Company of Harrisburg to occupy the streets and avenues of the city with poles and wires. 31 Dec., 1884. 3, 640.

### Excelsior Electric Company.

3. Granting permission to the "Excelsior Electric Company" of Harrisburg, to occupy the streets and avenues of the city with poles and wires. 2 March, 1887. 4, 144.

### Harrisburg Electric Company.

4. Granting to the Harrisburg Electric Company the privilege of transferring to the Harrisburg Light, Heat and Power Company, all the contracts and obligations existing between said company and the city, and ratifying such transfer. 15 July, 1899. B, 521.

### Harrisburg Light, Heat and Power Company.

5. Granting permission to the Harrisburg Light, Heat and Power Company, of Harrisburg, to occupy the streets and avenues of the city with their poles and wires. 15 July, 1899. B, 518.

### Paxtang Electric Company.

6. Giving permission to the Paxtang Electric Company of Harrisburg to occupy the highways of the City of Harrisburg with its poles, wires and conduits for the purpose of supplying electrical light, heat and power; to construct, maintain and operate the same; requiring said company to pay ten thousand dollars (\$10,000) cash bonus into the city treasury for the rights, etc., herein granted, and to deposit with and forfeit to said city five thousand dollars (\$5,000) additional cash under certain conditions. 5 March, 1902. C, 188.



## Electric Lighting Apparatus.

[See POLES AND WIRES.]

Dynamo machines, 1, c.  
Exception, 8.  
Lamps, 1, b.

Wires, 1, a.  
Penalty, 2.

### Rules and regulations.

1. That all corporations, companies, partnerships and individuals establishing, owning, conducting or operating electric lighting apparatus in the City of Harrisburg shall observe and comply with the following rules and regulations, viz:

WIRES (a). Conducting wires over buildings must be seven feet above roofs, and also high enough to avoid ladders of the fire department.

Whenever the electric light wires are in proximity to other wires, dead guard wires must be placed so as to prevent any possibility of contact, in case of accident to the wires or their supports. Conducting wires must be secured to isolating fastenings and covered with an isolating which is water-proof on the outside and not easily worn by abrasion.<sup>1</sup> Whenever wires pass through walls, roofs, floors or partitions, or there is a liability to abrasion or exposure to rats or mice, the insulation must be protected with lead, rubber, stoneware or some other satisfactory material. Wires entering buildings must be wrapped so that water cannot enter through the tubes. For inside use, loops of wire must be avoided, and the insulating fastenings arranged to keep the wires free from contact with the building.

Joints in wires to be securely made and wrapped; soldered joints are desirable, but not essential. Wires conducting electricity for arc lights must not approach each other nearer than one foot, and for incandescent lamps, the main wires must not be less than two and a half inches apart.

Care must be taken that the wires are not placed above each other in such a manner that water could make a cross connection.

A cut-out, which can be operated by the firemen or police, must be placed in the circuit in a well protected and accessible place, where property owners or insurance companies desire it.

LAMPS (b). For arc lamps, the frames and other exposed parts of the lamps must be insulated from the circuit. Each lamp must be provided with a separate hand switch, and also with an automatic switch which will close the circuit and put the lamps out whenever the carbons do not approach each other, or the resistance of the lamps becomes excessive from any cause. The lamps must be provided with some arrangement or device to prevent the lower carbons from falling out in case the clamp should not hold them securely. For inside use, the light must be surrounded by a globe which must rest in a tight stand, so that no particles of melted copper or heated carbon can escape; and when

<sup>1</sup> See post, 8.

near combustible material this globe must be protected by a wire netting. Broken or cracked globes must be replaced immediately. Unless a very high globe is used, which closes in as far as possible at the top, it must be covered by some protector reaching to a safe distance above the light.

For incandescent lamps, the conducting wires leading to each building and to each important branch circuit must be provided with an automatic switch or cut-out or its equivalent, capable of protecting the system from any injury due to an excessive current of electricity. The small wires leading to each lamp from the main wires must be very thoroughly insulated, and, if separated or broken, no attempt made to join them while the current is in the main wires.

**DYNAMO MACHINES** (c). Dynamo machines must be located in dry places, not exposed to flyings or easily combustible material, and insulated upon wood foundations. They must be provided with devices capable of controlling changes in the quantity of the current; and, if these governors are not automatic, a competent person must be in attendance near the machine whenever it is in operation. Each machine must be used with complete wire circuit, and connections of wires with pites, or the use of ground circuits in any other method, is absolutely prohibited.

The whole system must be kept insulated, and tested every day for ground connections at ample time before lighting, to remedy faults or insulation, if they are discovered.

Preference is given for switches constructed with a lapping connection, so that no electric arc can be formed at the switch when it is changed; otherwise the stands of switches, where powerful currents are used, must be made of stoneware, glass, slate, or some incombustible substance which will withstand the heat of the arc when the switch is changed. 29 Sept., 1883. 3, 545, §1.

**Penalty.**

2. Any person, firm, company or corporation who shall fail or refuse to observe and comply with any of the rules and regulations established by the first section of this ordinance, or shall omit any precaution therein prescribed, shall, on conviction thereof before the mayor or any alderman of the city, be fined not exceeding one hundred dollars, the provisions of this ordinance to take effect October 1st, 1883. Id., §2.

**Exception.**

3. That the section in ordinance No. 549, file of common council, entitled "An ordinance establishing rules and regulations for the use and management of electric lighting apparatus in the City of Harrisburg," included between the word "supports" in line 10 to the word "abrasion" in line 12, shall not apply to conducting wires for incandescent lighting when protected by dead wires. 28 Aug., 1885. 4, 20, §1.

## Explosives and Combustibles.

Explosive oils, &c., place of store-house, 2.

Explosive oils, &c., quantity allowed to be stored, 2.

Explosive oils, &c., sale of, regulated, 1.

Inflammable substances, removal of, 4.  
Inflammable substances, storage of, regulated, 3.

Inspection by chief engineer to be permitted, 4.

Penalty, 2, 5.

### Explosives and combustibles; Penalty.

1. That hereafter it shall be unlawful for any party or parties to sell or otherwise dispose of coal oil or other explosive fluids, within the limits of the city after early candle-light, under the penalty of twenty dollars for each and every offense; said fine to be recovered for the use of the city as other fines are by law recoverable. 6 March, 1869. 1, 385, §1.

### Quantity allowed to be stored.

2. That any merchant doing business within the limits of the City of Harrisburg shall have authority to store refined carbon and other oils not exceeding one hundred barrels in any one building. The said buildings to be erected east of the Pennsylvania Railroad and the location of said buildings to be approved by the committee on highways of the select and common councils. That any person or persons who shall violate the provisions of this ordinance, shall, upon conviction thereof before the mayor or any alderman of the city, be fined in a sum not less than one hundred dollars nor more than five hundred dollars, to be recovered as fines of like amount are now recoverable by law. 4 Aug., 1874. 3, 95, §1, amended 28 June, 1880. 2, 8, §1.

### Inflammable substances, storage regulated.

3. That hereafter no loose paper, rags, empty boxes or other inflammable substances shall be placed, stored or deposited in the yards or vacant lots adjacent to buildings within the limits of the City of Harrisburg, nor in rooms or cellars of business places where furnaces or stoves are fired or gas burned, for a period of more than twenty-four hours. 1 Dec., 1902. C, 432, §1.

### Chief engineer to have access for inspection purposes.

4. That the chief engineer of the fire department shall have access, at all reasonable hours, to all business places in the city for the purpose of inspecting the same with reference to the storage or deposit of inflammable substances, and he shall, wherever he finds loose paper, rags, empty boxes or other inflammable substances placed, stored or deposited, contrary to the provisions of this ordinance, notify the owners or occupiers of the premises to remove the same within twenty-four hours. Id., §2.

### Penalty.

5. Any person violating the provisions of this ordinance, or in any manner interfering with the chief engineer of the fire department in the discharge of his duties hereto imposed, shall, upon conviction thereof before the mayor or any alderman of the city, pay a fine of not more than twenty-five dollars (\$25),

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and in default of the payment thereof be imprisoned in the jail of Dauphin county for a period not exceeding thirty days. Id., §3.

### Fairs.

[See NUISANCES.]

### Fences.

[See BUILDINGS, 47—SHADE TREES.]

#### Partition fences regulated; Penalty.

1. That the surveyors for the time being, or any two of them, shall have full power to regulate partition fences within the said city, and where the adjoining parties do improve or inclose their lots, such fences shall be made in the manner generally used, and kept in repair at the equal cost of the parties, so that the price for making does not exceed twenty-five dollars every hundred feet, unless the owners or possessors between whom such fence is or shall be erected, do agree otherwise; and if either party between whom such partition fence is or shall be made, shall neglect or refuse to pay his half part or moiety, for the repairing or setting up such partition fence as aforesaid, that then the party at whose cost the same was so set up or repaired, may have his action at law for the said moiety of such costs. 2 Dec., 1862. 1, 74, §5; amended 9 June, 1873. 1, 633, §1.

### Fire Alarm Telegraph.

[See POLES AND WIRES.]

Conviction for tampering with apparatus, &c., reward for, 11.

False alarm, penalty for, 10.

Gamewell Auxilliary Fire Alarm Company; considerations for rights, 18.

Gamewell Auxilliary Fire Alarm Company; exclusive right not granted, 16.

Gamewell Auxilliary Fire Alarm Company; liable for damages, 15.

Gamewell Auxilliary Fire Alarm Company; permission to connect with city's system, 13.

Gamewell Auxilliary Fire Alarm Company; permission to construct, &c., 12.

Gamewell Auxilliary Fire Alarm Company; permission to use poles, 14.

Gamewell Auxilliary Fire Alarm Company; subject to city ordinances, 17.

Injury to apparatus, penalty for, 10.

Lineman to be employed, salary, 19.

Repeal, 7.

Superintendent of city fire police alarm telegraph; duties, 2, 8.

Superintendent of city fire police alarm telegraph; office of created, 1.

Superintendent of city fire police alarm telegraph; reports monthly, 4.

Superintendent of city fire police alarm telegraph; salary (\$720), 6.

Superintendent of city fire police alarm telegraph; subject to joint committee on fire and fire alarm, 9.

Superintendent of city fire police alarm telegraph; tenure of office, 1, 3.

Superintendent of city fire police alarm telegraph; vacancy in office, how filled, 3.

Supplies to be furnished by city, 5.

#### Superintendent to be appointed; Term two years.

1. That upon the first Monday in April, A. D. 1891, and every two years thereafter, the mayor shall nominate, and by and with the advice and consent of select council, appoint a competent person, not a member of the police department, as superintendent of the city fire police alarm telegraph. 10 June, 1891. 2, 443, §1.

**Duty.**

2. It shall be the duty of such superintendent to take charge of and keep in thorough working order and repair the batteries, wires, boxes and apparatus pertaining to the fire and police alarm telegraph system. Id., §2.

**Removable for incompetency, &c.; Vacancy.**

3. Such superintendent shall be removable for incompetency or neglect of duty, and all vacancies in said office from any cause shall be filled by the mayor. Id., §3.

**To co-operate with mayor and fire committee; Reports.**

4. It shall also be the duty of said superintendent to co-operate at all times with the fire committees of councils and mayor in the vigilant enforcement of the rules and regulations pertaining to the management of said fire alarm, and to make a monthly report to said committees of the condition of the said system, and of the needs of the same. Id., §4.

**Supplies.**

5. All supplies for the maintenance and repair of said fire alarm apparatus shall be furnished by the city, under the direction of the aforesaid committees, subject to the approval of councils. Id., §5.

**Salary (\$720).**

6. The salary of said superintendent shall be seven hundred and twenty dollars per annum, payable semi-monthly. Id., §6.

**Repeal.**

7. All ordinances or parts of ordinances inconsistent herewith are hereby repealed. Id., §9.

**Duties.**

8. That it shall be the duty of said superintendent to keep, or cause to be kept in good order, the batteries, inspect the gongs in the engine houses, alarm boxes and repeaters at the mayor's office, sounding the court house strikes, repairing any or all breaks along the line and the machinery at the engine houses, mayor's office and alarm boxes, and shall arrange and prescribe, in consultation with the chief engineer of fire department, a code of signals for the use of said department, and further he shall strike daily at 12 o'clock M. the correct time, to discover any defects on the line, and if any, cause them to be repaired. 11 April, 1876. 2, 45, §2.

**Superintendent subject to committee on fire and fire alarm.**

9. The said superintendent shall at all times be subject to the directions of the joint committee on fire and fire alarm, to whom all reports should be made for examination. Id., §3.

**Penalty for false alarm or injuring boxes, poles, &c.**

10. That if any person or persons shall willfully give or cause to be given any false alarm from a fire alarm or police patrol box or boxes, or shall break or cause to be broken any fire alarm signal or police patrol box, or any pole, post or wire connected with the said fire alarm telegraph and police patrol system

within the City of Harrisburg, or shall injure or in any manner interfere with or interrupt the working of the same, he, she or they shall, upon conviction thereof before the mayor or any alderman of the city, be fined in a sum not exceeding one hundred (\$100) dollars, or imprisoned in the county jail not exceeding six (6) months, or both. 15 Oct., 1874. 2, 7, §1; amended 8 March, 1892. A, 28, §1.

**Reward for conviction of willful causing of false alarm.**

11. That the sum of one hundred dollars be offered as a reward and paid out of the general contingent fund to any person or persons who may make information and secure conviction of any person willfully tampering with the fire alarm telegraph of the city, so as to cause a false alarm of fire. That this ordinance be published for one month after the date of its approval. 30 Sept., 1886. 2, 147, §1.

**Gamewell Auxiliary Fire Alarm Company permitted to operate.**

12. That permission be and is hereby granted to the Gamewell Auxiliary Fire Alarm Company, or its assigns, to construct and operate its auxiliary system and to connect manufacturing establishments and others in the City of Harrisburg with the said system under such rules and regulations as may be prescribed by councils and to the satisfaction and approval of the chief engineer of the fire department and of the superintendent of the fire alarm of the City of Harrisburg. 18 May, 1896. B, 45, §1.

**Permitted to connect with city's system.**

13. That the said Gamewell Auxiliary Fire Alarm Company, or assigns, be and they are hereby granted permission to connect said auxiliary system with the fire alarm and police telegraph system operated by the city under such rules and regulations as may be prescribed by councils and to the satisfaction and approval of the chief engineer of the fire department and of the superintendent of the fire alarm of the City of Harrisburg, provided that all the expense of making such connections, as well as all the maintenance of said auxiliary system shall and must be borne by the said Gamewell Auxiliary Fire Alarm Company, or its assigns. Id., §2.

**Allowed to use poles.**

14. That the said Gamewell Auxiliary Fire Alarm Company, or its assigns, be allowed the use of the poles of the fire alarm and police patrol telegraph system operated by the city. Id., §3.

**Liable for damages.**

15. That the said Gamewell Auxiliary Fire Alarm Company, or its assigns, expressly makes itself liable for any and all damages which may result to private or public property anywhere in the city by reason of the construction or maintenance of their auxiliary fire alarm system, and that in all cases where the City of Harrisburg is held liable to damages for any accident whereby life and property is destroyed, which accident was occasioned by

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reason of the construction, existence or maintenance of the said auxiliary fire alarm system, the said Gamewell Auxiliary Fire Alarm Company, or its assigns, will indemnify the City of Harrisburg, and make good any damages so recovered. Id., §4.

No grant of exclusive right.

16. Nothing in this ordinance shall be so construed as to grant unto the said company an exclusive right or to prevent the grant of similar privileges to other individuals or companies for like purposes. Id., §5.

Subject to ordinances.

17. Said company shall at all times be subject to the ordinances now in force or which may be hereafter passed relative to the use of the auxiliary fire alarm system. Id., §6.

Consideration; License tax.

18. In consideration of the rights and privileges herein granted, said company shall furnish, free of cost to said city, one auxiliary alarm box to be placed in the mayor's office; also one auxiliary alarm box to be placed in the office of the city clerk, and shall pay annually to said city the sum of ten dollars as a license tax imposed pursuant to an ordinance entitled "An ordinance providing for the levy and collection of license taxes in the City of Harrisburg," approved the 27th day of March, 1893. Id., §7.

Superintendent to employ a competent lineman; His duties and salary.

19. That the superintendent of fire alarm be and he is hereby authorized to employ a competent lineman for the fire and police alarm department, to assist generally in the construction and maintenance of the city's system of fire and police alarm apparatus and wires; and inspect and report all poles, wires and conduits of any firm or corporation operating within the City of Harrisburg; and that the said superintendent shall have absolute power and control over the appointment, removal and duties of the said lineman; and that the said lineman shall be paid for his work at the rate of not exceeding fifty (\$50) dollars per month. 23 March, 1906. D, 544, §1.

## Fire Department.

[See BUILDINGS—CITY PROPERTY—FIRE ALARM TELEGRAPH—OFFICERS AND EMPLOYEES.]

Apparatus, use of, when permitted, 7.  
Alarms, who to respond, 6; Rule I.  
Assistant engineer; duties, 5.  
Assistant engineer; how appointed, 3.  
Assistant engineer; office created, 2.  
Chief engineer; bond (\$1,000), 17.  
Chief engineer; duties, 4, 13, 15.  
Chief engineer; how appointed, 3.  
Chief engineer; made fire marshal, 12.  
Chief engineer; office created, 2.  
Chief engineer; salary, (\$1,080) 17.  
Chief engineer; to designate company to respond for company out of service, 21.

Control of plug, 6; Rule II.  
False alarms, penalty for, 22.

Fire department, how made up, 1.  
Fire marshal, 12.  
Foreman, in charge of company, 6;  
Rule VI.  
General alarm, 19.  
Hose, use of, 8; Rule III.  
Intoxicating liquor in fire houses, &c.,  
6; Rule VIII.  
Penalty for company going out of its district, 20.  
Penalty for failing to make monthly statements, 16.  
Penalty for raising false alarm, 22.  
Penalty for improper use of apparatus, 8.

Penalty for interfering with right of way, 10.  
 Penalty for violating rules, 6; Rule VII.  
 Racing prohibited, 6; Rule V.  
 Repeal, 11, 14, 18.  
 Right of way given, 9.

Ringling of bells, 6; Rule IV.  
 Rules, 6.  
 Salary of chief (\$1,080), 17.  
 Statements of fire companies, monthly, 18.  
 Street cars, when to stop, 9.  
 Violation of rules, to be reported, 20.

**Fire department, how made up.**

1. That the several volunteer fire companies now in service, and those which may hereafter be organized and re-organized and recognized by the city, shall together form the fire department of the City of Harrisburg. 16 Sept., 1881. 3, 374, §1.

**Department to be under a chief and an assistant engineer.**

2. That the fire department of the City of Harrisburg shall be under the superintendence, direction and control of a chief engineer and an assistant engineer, who shall be officers of the city. 19 Jan., 1893. A, 196, §1.

**Chief and assistant, how appointed; Terms.**

3. The said officers shall be appointed by the mayor, by and with the advice and consent of select council, and shall serve for and during the term of two years, and until their successors shall have been confirmed by the said council. The terms of the first officers appointed under this ordinance shall commence on the first day of January, A. D. 1893. Id., §2.

**Duties of chief engineer.**

4. The said chief engineer shall at all times have full control of the engines, hose and hose carriages, hooks, ladders and fire apparatus generally, and give general directions how, when and where to use them in cases of fires, where the hose shall be attached, place the engines, direct the streams, and order the hose to the several engines, and shall have a general supervision of the fire apparatus; he shall have free access thereto at all times for the purpose of inspection, and shall daily inspect the same, and report to councils the condition thereof at the end of every three months, and oftener if the councils shall so direct by resolution; he shall have full power and authority to have the apparatus and buildings repaired when necessary, and to purchase such materials and such other improvements as he may deem necessary to promote and improve the service; he shall personally supervise all repairs to the engine houses, engines, carriages and hose, and other apparatus of the department; he shall advertise for all proposals for materials, hose and apparatus for the department, when so directed by councils, open all bids and award all contracts therefor, subject to the approval of councils; he shall submit to councils, for their approval, rules and regulations, with proper penalties, for the government of said department; he shall be provided with an office in the new Friendship house, or elsewhere, as councils may, by resolution, order. Id., §3.

**Duties of assistant engineer.**

5. The assistant engineer shall aid the chief engineer in the performance of his duties, and in case of sickness of the chief engineer, he shall act for him. Id., §4.



**RULES FOR THE GOVERNMENT OF THE FIRE DEPARTMENT OF THE CITY OF HARRISBURG.****Responding to alarm.**

6. I. When the city alarm is sounded in the various engine, truck and hose houses, all companies will immediately prepare themselves; the truck company responding to all alarms; the engine and hose companies responding to only such boxes as are assigned to them; the remainder remaining ready for action in case the second or general alarm is sounded, indicating the necessity for the entire department to respond.

**Control of plug.**

II. The first hose carriage arriving at a plug shall have control of the water therefrom and the first engine arriving at said plug shall make an attachment and give a stream of water to the company holding the said plug, and said attachment shall have preference over any other attachment made from said engine during that fire. And it is further understood that in case of the arrival of an engine at a plug before a hose carriage then said engine shall make an attachment and give a stream to the first hose carriage on the ground.

**Hose.**

III. Any company running out a line of hose and not having a sufficiency, the next company arriving shall attach their hose and complete the line to the fire and give control of said line of hose to the first company. But it is distinctly understood that any company having the use of any hose belonging to another company shall return the same to the company owning the hose immediately after the fire.

**Ringling of bells.**

IV. When responding to alarms ring the bells or gongs on the apparatus continuously; but there shall be no blowing of whistles, ringling of bells or gongs returning from fires.

**Racing.**

V. Racing to fires is strictly prohibited as it is not only abusive and cruel to horses drawing heavy apparatus, but it endangers the safety of the firemen and the public, and is liable to cause damage to the property of the city.

**Foreman to have charge of his company.**

VI. The foreman of each engine, hose or hook and ladder company shall have charge of his company at fires; he shall preserve order and discipline at all times among the members of his company, require of them and enforce a strict compliance with the rules and regulations of the department, and the orders of the chief or assistant engineer.

**Penalty.**

VII. Any company disobeying either of the foregoing rules, or any order given by the chief or assistant engineer while at a fire, shall be fined fifteen dollars for the first offense, and for the second

be suspended without pay during the time of their suspension; the fines to be deducted from their annual appropriation from the city. 15 June, 1893. A, 646.

**Intoxicating liquor.**

VIII. The use of intoxicating liquor in any house or premises of the Harrisburg fire department is strictly forbidden, and the company allowing the same shall forfeit from their annual appropriation the sum of fifty dollars for the first offense, one hundred dollars for the second offense, and for the third offense the company shall be dismissed from the Harrisburg fire department, and the chief engineer is hereby directed to take charge of the machinery and apparatus and report immediately to councils his action. 27 Feb., 1895. A, 645.

**Permission for use of apparatus to be obtained in writing.**

7. That no person or persons shall be permitted to use any of the steam fire engines, or any part or parts of the steam fire engines, or any part or parts of the fire apparatus of the city for any purpose whatever without first having obtained the written consent of the chief engineer of the fire department and a majority of the fire committee of council; *Provided*, That this shall not apply to alarms of fire or cases where it is found necessary to repair said apparatus, clean or dry the same by any fire company, or by the direction of said chief engineer or said fire committee. 9 March, 1874. 3, 72, §1.

**Penalty.**

8. That any person or persons violating this ordinance shall, on conviction, pay a fine of fifty dollars for the first offense, and one hundred dollars for each subsequent offense, the same to be collected as other fines are now by law recoverable. *Id.*, §2.

**Right of way; Street cars to stop.**

9. That all apparatus belonging to the fire department of the City of Harrisburg, when attending any fire or an alarm of fire, shall have the right of way on any and all streets, lanes and avenues, and all persons driving vehicles of any kind (except street passenger railway cars) shall turn entirely off the center of the street close to the curb, and shall remain there at a full stop until such apparatus of the department shall pass; and it shall be the duty of the conductor or motorman of any street passenger railway car, upon the approach of any apparatus belonging to the fire department when proceeding to a fire, to immediately stop such railway car until such apparatus shall pass. 9 Nov., 1898. B, 419, §1.

**Penalty.**

10. Any person or persons violating any of the provisions of the first section of this ordinance shall, upon conviction thereof before the mayor or any alderman of the city, be punished by a fine not exceeding fifty dollars (\$50), and if such fine is not paid then the offender or offenders shall be imprisoned in the county jail for a period not exceeding thirty days. *Id.*, §2.

**Repeal.**

11. That all ordinances or parts of ordinances inconsistent herewith, be and the same are hereby repealed. Id., §3.

**Fire marshal.**

12. That the chief engineer of the fire department be, and he is hereby made ex-officio fire marshal of the City of Harrisburg, as provided by Act of Assembly, entitled "An Act providing for the creation of the office of fire marshal in cities of the third class, defining his powers and duties, fixing the penalties for preventing or obstructing him in the discharge of his duties, and providing for hearing before such marshal," approved June 24, A. D. 1895. 10 Oct., 1900. B, 710, §1.

**Duties.**

13. The said chief engineer of the fire department is hereby directed to perform the duties of fire marshal and shall receive no extra compensation other than that fixed by section 5 of an ordinance entitled "An ordinance placing the fire department of the City of Harrisburg under the supervision and control of the chief engineer and the assistant engineer thereof, providing for the appointment of said office and prescribing therein his duties, powers and compensation," approved January 2, A. D. 1893. Id., §2.

**Repeal.**

14. That all other ordinances or parts of ordinances inconsistent herewith, be and the same are hereby repealed. Id., §3.

**Monthly statement of disbursements of fire companies.**

15. That the chief engineer of the fire department be and he is hereby required and directed to demand of the fiscal officers of each of the fire companies receiving annual appropriations of public moneys, a detailed monthly statement of the expenditure and disbursement of such funds, and file the same with the city clerk on or before the second Monday of each month for the information of councils. 1 April, 1902. C, 237, §1.

**Penalty to company neglecting to make statements.**

16. That upon the failure or refusal of any company to comply with the provisions of this ordinance, the balance of the appropriation standing to the credit of the company so offending, shall be withheld until the statement as aforesaid shall be forthcoming; and the city controller and the city treasurer are hereby respectively ordered and directed not to countersign or to pay any warrant to any of the said fire companies until the city clerk has notified them in writing that the statement required by this ordinance has been approved by councils. Id., §2.

**Salary of chief (\$1,080); Bond (\$1,000).**

17. That from and after the first Monday of April, 1906, the salary of the chief engineer of the fire department shall be the sum of ten hundred and eighty dollars (\$1,080) per annum, payable semi-monthly; *Provided, however,* That upon entering upon the duties of his office, the chief engineer of the fire department

shall give a bond in the sum of one thousand dollars (\$1,000) for the faithful performance of all his duties, said bond to be approved by the city solicitor. 6 March, 1906. D, 508, §1.

**Repeal.**

18. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed. Id., §2.

**General alarm.**

19. Whereas, on the request of the Firemen's Union, the fire department has been districted, the same having been approved by councils; for the purpose of carry the same into effect it becomes necessary for the enactment of certain rules and regulations; therefore, be it ordained, &c., that on the arrival of the chief engineer or assistants at the fire, when, in their judgment, it is necessary to have more apparatus than that responding to the first alarm, they shall, from the nearest box, strike 2-2-2, which shall be the signal for the entire department to respond to the box first struck. All companies shall remain harnessed and ready to move until they receive the signal three taps, which shall be the chief engineer's signal that the fire is under control, and that they are not needed. 11 Sept., 1890. 2, 384, §1.

**Penalty for a company for going out of district; Violation of rules.**

20. Any company running out of the district designated for them shall be fined for the first offense, two dollars; for the second offense, five dollars, and for the third offense, one-twelfth of their yearly appropriation. It shall be the duty of the chief and assistant engineers to report all violations of the above rules to the city controller, who shall deduct the amounts so reported from the company or companies' yearly appropriation. Id., §2.

**Chief engineer to designate company to respond for company out of service.**

21. The chief engineer shall be empowered, in case any company is out of service, to designate the company to respond in their stead, while said company or companies remain out of service. Id., §3.

**Penalty for raising false alarm of fire.**

22. That if any person or persons from and after the passing of this ordinance, shall willfully or designedly raise or cause to be raised any false alarm<sup>1</sup> of fire, and shall be convicted thereof before the mayor or any of the aldermen of said city, such offender or offenders shall, for every such offense, forfeit and pay a penalty of not less than five dollars, nor more than twenty dollars, to be recovered under the provisions of the charter of said city; the one-half of said fine or penalty to go to the informer, and the other half to be paid into the city treasury for the use of said city. 11 Dec., 1860. 1, 10, §5.

<sup>1</sup> See Fire Alarm Telegraph, 11.

## Fire Marshal.

[See FIRE DEPARTMENT.]

### Fires, Protection Against.

Dangerous practices unlawful, 1.  
Plumbers, &c., when excepted, 3.

Penalty, 2.

#### Dangerous practices.

1. That the practice of burning shavings, straw or other inflammable matter in the streets and alleys, the projecting of stove pipes through roofs, sides and ends of buildings, the smoking of lighted pipes and cigars in and near barns and stables, and carrying lighted candles in or about stables or barns, except in lanterns, be and the same are hereby severally declared unlawful. 11 Dec., 1860. 1, 10, §3.

#### Penalty.

2. That if any person or persons shall be found disregarding the provisions contained in this ordinance, and being thereof convicted before the mayor or any of the aldermen of said city, he, she or they shall forfeit and pay for every such offense the sum of five dollars, to be recovered as other fines are made recoverable by the ordinances of said city. Id., §4.

#### Plumbers.

3. That the provisions of the third and fourth sections of an ordinance to prevent fires and firing of guns, &c., passed December 11, 1860, shall not be enforced against plumbers or persons engaged in putting on gravel roofs; *Provided*, That all necessary precautions be used by them for the security of property, in the vicinity of their operations, from damage. 7 July, 1866. 1, 236, §1.

## Fireworks.

#### Display and sale of, regulated.

1. That it shall not be lawful for any person to sell or cause to be sold any fire crackers, torpedoes, squibs or other pyrotechnics, or to fire off, discharge or explode any gun, pistol or other firearm, or any such fire crackers, torpedoes, squibs or other pyrotechnics within the limits of the said city from and after the passage of this ordinance; and any person violating this section shall, on conviction thereof before the mayor or any alderman, be fined not less than one, nor more than five dollars for each offense, for the use of the city, or be imprisoned not exceeding ten days, or both, in the discretion of the mayor or alderman hearing the case. In default of the payment of any fine imposed under this ordinance the offender shall be committed not exceeding twenty days; *Provided*, That the provisions of this sec-

tion shall not apply to the sale and discharging or exploding of squibs or fire crackers (the sizes of which shall be Nos. 1, 2, 3 and 4) or other pyrotechnics on Independence Day (or Fourth of July); should this date fall on Sunday then the provisions hereof shall be extended to the following day, and the privilege hereby granted shall be for twenty-four hours only and no pyrotechnics shall be sold to anyone under fifteen years of age, or to persons under the influence of liquor, under a penalty of a fine of twenty-five dollars or imprisonment for twenty-five days; *Provided, also*, That the mayor shall have the power to grant the privilege to any political club or other organization during the campaigns to discharge roman candles or burn red fire, and during the inauguration of a governor, the mayor shall be and is hereby authorized to grant the committee having the inaugural ceremonies in charge the privilege of a pyrotechnical display or displays; *Provided, also*, That no merchant or dealer shall expose for sale or sell any fire crackers of a larger size than Nos. 1, 2, 3 and 4, which are known to the trade as squibs or small fire crackers, under a penalty of twenty-five dollars fine for each and every offense, which shall be collected as all other fines are by law collectible, and a failure to pay said fine, then the offender or offenders shall be imprisoned for not less than fifteen days or more than thirty days; *Provided, also*, That the mayor shall have the power, when requested, to prohibit the use of fire crackers or pyrotechnics at any particular point or points where there is sickness or death. 11 Dec., 1860. 1, 10, §1; amended 15 Jan., 1878. 3, 1, §3, and 8 Feb., 1897. B, 171, §1.

### Forestalling.

Forestalling prohibited, 1.  
Forestalling at the West Harrisburg  
Market, prohibited, 2.

Penalties, 1, 3.

#### Forestalling prohibited.

1. That no regular butcher or other person shall, directly or indirectly, purchase or cause to be purchased from any farmer or other person, any fresh meats (except pork in the hog) offered for sale within the bounds of the city, and resell the same meats, or any part thereof, at wholesale or retail, under the penalty of five dollars for every offense. 2 March, 1861. 1, 19, §18.

#### Forestalling in the West Harrisburg Market.

2. That no huckster, dealer or other person whatever, shall cause to be bought at the West Harrisburg Market any articles of provisions, fruit, vegetables or other commodities for the purpose of retailing or reselling the same, between the hours of five o'clock A. M. and nine o'clock A. M., on Tuesdays and Fridays of each and every week, and between the hours of twelve o'clock A. M. and eight o'clock P. M., on each and every Saturday. 1 Aug., 1868. 1, 357, §1.

**Penalty.**

3. That for every violation of the provisions of this ordinance the offender or offenders shall be fined in any sum not exceeding five dollars, at the discretion of the mayor or any alderman of said city, before whom the offender or offenders may be prosecuted to conviction. Id., §2.

## Funerals and Funeral Processions.

[See BOARD OF HEALTH.]

**Penalty for forcing horses or vehicles through funeral processions.**

1. That from and after the passage of this ordinance it shall not be lawful for the driver or other person in charge of any wagon, carriage, cart or other vehicle, including railroad or railway cars or any person on horseback, to force through any funeral procession on any of the streets of this city, and any person violating the provisions of this ordinance shall, on conviction before the mayor or any alderman, be fined not exceeding ten dollars or imprisoned not exceeding thirty days. 5 Feb., 1881. 3, 318, §1.

## Garbage.

[See NUISANCES.]

Bids for removal of, 8.

Bond, to be given, 8.

Garbage defined, 1.

2. Garbage, contract for removing, &c.,

Garbage, contract subject to regulations, 4.

Repeal, 5.

**Garbage defined.**

1. That the word "garbage" is defined generally to be all house and store rubbish, ashes, floor sweepings, kitchen and table waste of animal or vegetable nature, vegetables, meats, fish, bones, fat and all offal and carrion. 11 July, 1903. C, 619, §1; amended 30 Jan., 1904. C, 727, §1.

**Garbage gathered under contract.**

2. That hereafter all garbage as herein defined shall be gathered and removed, under contract given to the lowest responsible bidder, at such times and with such frequency and to such places as shall be determined by the sanitary committee of councils, constituted as a local board of health. 11 July, 1903. C, 619, §2.

**Bids; Bond.**

3. That the chairman of the said sanitary committee shall advertise for proposals for the collection and removal of all garbage within the limits of the city for the period of one, three, five or ten years, and award a contract for the same to the lowest responsible bidder, subject to the approval of councils. Each bid shall be accompanied by a surety company bond to be approved by the city solicitor, in the sum of fifteen thousand dollars, conditioned

for the acceptance and faithful execution of the contract when awarded. Id., §3.

**Contract subject to existing regulations.**

4. That the contract, when awarded, shall be subject to all existing regulations covering the collection and removal of garbage and subject also to all such other rules and regulations that may hereafter be legally adopted. Id., §4.

**Repeal.**

5. That all ordinances or parts of ordinances inconsistent herewith, be and the same are hereby repealed. Id., §5.

## Gas Pipes.

Mayor to decide upon violations of ordinance, 4.  
Penalty, 4.  
Responsibility for damages, 8.

Regulations of city must be complied with, 1.  
Trenches to be filled solidly, 8.  
Work must be done speedily, 2.

**Laying of pipes for, regulated.**

1. That no private individual, firm or company or corporation engaged in the manufacture and supply of gas or gaseous fluid, shall lay their pipes under the soil of any of the streets or avenues of the City of Harrisburg unless complying with the following regulations of councils. 20 Jan., 1897. 2, 61, §1.

**Work to be done speedily, &c.**

2. That when gas pipes are laid, the individual, firm, company or corporation owning the same shall dig the trenches and align the pipes with as little delay as possible, and restore the streets and avenues occupied by them to as good and perfect condition as they were in before the opening of the same, and at the expense of the said owners. Id., §2.

**Trenches, sewers, gas and water pipes; Responsibility for damages.**

3. That the trenches which may be opened for the purpose of laying pipes shall be filled up in a solid and substantial manner as the pipes are laid, so as to avoid accidents, and no sewer, sewer-inlet, water pipe or other gas pipe shall be disturbed or interfered with; and every such individual, firm, company or corporation using or occupying the streets or avenues of the City of Harrisburg for any of the purposes mentioned in this ordinance or in carrying on their business, shall be responsible for all damages resulting from the exercise or conduct thereof. Id., §3.

**Mayor to have jurisdiction; Fine.**

4. That the mayor of the City of Harrisburg shall have jurisdiction to hear and decide upon all violations of this ordinance, and shall, in case of conviction of defendants in such cases, impose a fine of not less than five nor more than fifty dollars. Id., §4.



**Hacks.**

[See LICENSE AND LICENSE TAXES.]

Regulations for stands may be made by the mayor; stands for, may be designated by the mayor.

1. That the mayor is hereby authorized and required to designate the stands to be occupied by hacks which now are or may hereafter be licensed by the city, and to make the necessary regulations for their government while on the stands. 26 June, 1865. 1, 208, §1.

**Harrisburg Fireman's Relief Association.**

Repeal, 8.  
Revenue from foreign insurance companies appropriated to, 1.

Special account to be kept, 2.  
Warrants, how drawn, 2.

Revenue from foreign insurance companies.

1. That all such sums of money as may be received by the city treasurer in accordance with the Act of Assembly, approved June 28th, 1895 (P. L., 408), be and is hereby declared to be received for the benefit of the Harrisburg Fireman's Relief Association.<sup>1</sup> 10 Jan., 1898. D, 330, §1.

Special account; Warrant drawn.

2. That the city treasurer is hereby directed to enter such sums, on the receipt thereof, under a special account, and to report the said amount annually to the city clerk, who is hereby directed to issue a warrant therefor in favor of the treasurer of the Harrisburg Fireman's Relief Association, immediately after the receipt thereof, and on report to him by the city treasurer. Id., §2.

Repeal.

3. That any ordinance or part of ordinance conflicting with the provisions of this ordinance be and the same is hereby repealed so far as the same affects this ordinance. Id., §3.

18 Lanc. L., Rev., 273, 1901. Lancaster Fireman's Relief Assn. v. Rothfury.

**Highway Department.**

[See BRIDGES—PASSENGER RAILWAYS—PAVEMENTS AND CURBS  
—PAXTON CREEK—POLES AND WIRES—SUPERVISORS.]

Civic Club, allowed to place receptacles for waste material, 5.

Cleaning of paved streets, proposals for, 6.

Clerk, salary of (\$1,200), 8.

Clerk, to be clerk to building inspector, 8.

Commissioner of highways; bond (\$5,000), 3.

Commissioner of highways; duties, 3.

Commissioner of highways; how appointed, 2.

Commissioner of highways; office, 8.

Commissioner of highways; salary (\$1,500), 3.

Commissioner of highways; term, 2.

Contract for cleaning paved streets, 7.

Highway department established, 1.

Price of labor, 3.

Prohibition, certain, 2.

Receptacles for waste material, Civic Club allowed to place, 5.

Receptacles, contents of, how to be removed, 5.

Repeal, 9.

Supervisors to be foremen, 4.

**Highway department established.**

1. That there is hereby established a department to be known as the highway department, which shall be charged with the execution of the ordinances of the city relating to the streets, sidewalks, lanes, avenues, sewers, water courses, bridges and other public places. 26 Nov., 1882. 2, 274, §1.

**Commissioner, how appointed; Prohibition; Term.**

2. The chief officer of said department shall be styled the commissioner of highways, and shall not be allowed to employ his own teams on the highways. He shall be nominated and, by and with advice and consent of the select council, appointed by the mayor, and shall hold his office from the first Monday in January, 1889, for three years, and until his successor is appointed and qualified, and triennially thereafter, the mayor shall in like manner nominate and appoint a commissioner of highways, and in like manner fill all vacancies that shall occur by death, removal from the city, resignation or otherwise, and said commissioner shall be removed by the mayor for misconduct or neglect of duty. Id., §2.

**Salary; Duties; Price of labor; Bond; Office.**

3. He shall receive a salary of fifteen hundred dollars per annum, and be assigned a separate office with all necessary office expenses wherein he shall keep a record of his official acts, which shall be open to the inspection of any citizen interested. He shall see that all streets, sidewalks, lanes and avenues, and all other public places in the city are kept free from obstruction and in good order; make all contracts under the direction and subject to the approval of councils, and see that the same are faithfully performed. He shall take care that all ordinances and regulations of the city in respect to its streets, sidewalks, lanes, avenues, sewers, water courses and other public places are complied with and enforced. He shall employ at such time and places such and so many laborers and others, horses, carts, etc., as may be necessary to carry on the work in his department. The prices to be paid for labor and material shall be subject to approval of the city controller. He shall keep a roll of names of persons employed by him, embracing the work done, the amounts due and the time such persons have been engaged, and submit it monthly to the city controller. He shall make quarterly reports to councils of his official doings in July, October, January and April, and annually in December he shall submit to the mayor a general report reviewing the work of the past year, in which he shall also make suggestions and recommendations with reference to the subject of his office as to him may appear proper, which shall be communicated to councils by the mayor. He shall make no expenditure of money, and no contracts whereby any responsibility may be cast upon the city, without a previous appropriation and the authority of councils therefor. He shall enter into and acknowledge bond with at least two sufficient sureties, to be approved by the city solicitor, in the sum of five thousand dollars, conditioned for the faithful discharge of all the duties of his office. Before

entering upon the performance of his duties he shall take and subscribe before the mayor the oath of office required by the Act of Assembly, approved April 18, 1874. Id., §3.

**Supervisors.**

4. The commissioner of highways shall have paramount control of all work to be done and laborers employed on all the highways and public places of the city. The supervisors of the city shall be "ex-officio" foremen of the workmen employed in their respective districts, and shall at all times be subject to the direction of the commissioner of highways. Id., §4.

**Civic Club permitted to place receptacles for waste material.**

5. That permission be granted the Civic Club to place receptacles for the collection of waste material at the intersection of the streets in accordance with their request, and that the highway commissioner be and he is hereby instructed to make provision for the collection and removal of said waste material. The said receptacles to be placed as per the direction of the Civic Club. Res., 14 May, 1898.

**Proposals for cleaning paved highways.**

6. That the highway commissioner shall advertise for sealed proposals for the cleaning of the paved highways of the city by contract, under specifications to be approved by councils, after the first Monday in April, 1905. 2 Dec., 1904. D, 197, §1.

**Contracts, how awarded.**

7. That said sealed proposals shall be advertised to be opened on the first Monday in January, 1905, and shall call for proposals for one, three or five years. The said highway commissioner shall submit the said proposals to councils, and councils shall award a contract to the lowest and best bidder, reserving the right to reject any and all bids. Id., §2.

**Salary (\$1,200).**

8. That the clerk to the highway commissioner's salary be, and the same is hereby fixed at twelve hundred dollars (\$1,200) per annum, payable semi-monthly as other salaries are now by law paid; and that in addition to his duties as clerk to the highway commissioner, he shall also be clerk to the building inspector. 10 July, 1906. D, 655, §1.

**Repeal.**

9. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed. Id., §2.

## House Numbers.

City engineer in charge of, 3.

Penalty for failure to comply with notice, 4.

Places and rows, distinct name or numbering, prohibited, 2.

System for, 1.

**System for.**

1. The city regulator, in making out the proper number of said houses, shall be governed by the subjoined plan or diagram, that

## 438 HOUSE NOS.—JANITOR OF MAYOR'S OFFICE.

is the initial or starting point shall be Market street and Front street, respectively, allowing one hundred numbers to each square, as aforesaid, and in all respects adhering to the decimal system of enumeration, also in all the streets running at right angles, but not extending to the initial point, the same order of enumeration shall be observed as though such streets did actually extend to the initial point. 2 June, 1866. 1, 249, §3; amended 22 Aug., 1876. 2, 53, §3.

### **Distinct name or number prohibited.**

2. That hereafter no place or row of houses shall be designated by a distinct name or numbering of the houses situated in place or row. 2 June, 1866. 1, 249, §4.

### **City engineer to arrange numbers.**

3. That the city engineer be and he is hereby authorized and directed to number, renumber, rearrange or revise the numbers of houses whenever or wherever it may be necessary, in order to equalize numbers in accordance with the system heretofore adopted and now in use by the city; and for that purpose he is hereby directed to furnish, through the chief of police, the owner of any house or property situate upon any street, lane or alley of the said city, with a written copy of the correct number to which it is entitled, and the chief of police shall serve or cause to be served the notices as aforesaid, and make proper return to the city engineer. 20 Nov., 1901. C, 127, §1.

### **Penalty.**

4. That every property owner shall, within thirty days after receiving such notice, cause the number to be painted, carved or cut in a conspicuous place upon the house or property designated in said notice, and any person or persons who shall fail or refuse to comply with said notice, shall, on conviction thereof before the mayor or any alderman of the city, forfeit and pay a fine or penalty of not less than five dollars nor more than twenty dollars, to be recovered in the name and for the use of the City of Harrisburg, in the manner in which fines are now by law recoverable, and the proper number shall thereupon be affixed to said property by the chief of police at the request of the city engineer. Id., §2.

## **Janitor of Mayor's Office.**

### **Invested with the power of a police officer.**

1. That the janitor of the mayor's office be and he is hereby invested with the power of a police officer, so that he may make arrests upon view or upon warrant, and may perform all the duties of a regular police officer whenever the necessity for such service may arise. 6 July, 1895. D, 358, §1.

## Junk Shops.

[See PAWNBROKERS.]

Articles, persons, &c., record of, 2.  
Books to be kept, 1.  
Books open to police, 2.

Description of articles, 2.  
Penalty, 3.  
Restrictions as to dealings, 1.

### Restrictions as to dealings; Books to be kept.

1. That from and after the passage of this ordinance it shall be unlawful for any keeper, owner, proprietor or employe of any junk shop within the City of Harrisburg, or for any owner, proprietor, or any employe of any second-hand shop within the City of Harrisburg, to barter, purchase, exchange, buy or accept, from any person whatsoever, except plumbers, holding licenses as such from such city, or the owner or owners of buildings from which material is taken, any pipe, faucet, boilers, spigots, coils, wire or any other like material whatever, or to barter, purchase, exchange, buy, receive, or accept any other second-hand goods, wares or merchandise of any kind or nature whatever, without providing and keeping books, and making therein at the time of such purchase, exchange, receiving or accepting the entries hereinafter provided. 20 Dec., 1901. C, 154, §1.

### Description of articles to be recorded, &c.; Books open to police.

2. Every owner of such junk shops and second-hand stores shall provide and constantly keep a book, in which shall be fairly written down in the English language, at the time of every purchase of any such material, a description of all articles so purchased, the name and residence of the person from whom such purchases are made, and the day and hour of such purchase, and such books shall at all times be open to the inspection of any and every member of the police and detective forces of said city. Id., §2.

### Penalty.

3. Any person or persons, firm or corporation who shall violate or neglect, fail or refuse to comply with any or all the provisions of this ordinance, shall for every offense, upon conviction before the mayor or any alderman, be subject to a fine of not less than twenty nor more than one hundred dollars, and in default of payment thereof be imprisoned in the county jail for a period not exceeding thirty days. Id., §3.

## License and License Taxes.

[See BILLBOARDS—FIRE ALARM TELEGRAPH, 18—POLES AND WIRES—SKATING RINKS.]

Auctioneers, 2; Clause I.  
Bankers, private, 2; Clause VI.  
Billiard, &c. tables, 2; Clause IX.  
Book agents, &c., 2; Clause V.  
Bowling alleys, 2; Clause X.  
Broker, 2; Clause VII.  
Business tax of insurance companies, 23.  
Business tax of express companies, 23.

Business tax of telegraph companies, 23.  
Business tax, how appropriated, 25.  
Business tax, how collected, 24.  
Butchers, 4; Clause XXXIII.  
Compensation to city clerk, 18.  
Combined shows, 3.  
Contractor, 2; Clause II.  
Contractor, who deemed, 2; Clause II.

Dealers, transient, 8.  
 Dogs, male, 4; Clause XXXVI.  
 Dogs, female, 4; Clause XXXVII.  
 Delinquents, notice to, 16.  
 Disabled soldiers, no charge to, 22.  
 Enforce ordinance, who to, 7, 21.  
 Electric, light and power companies, 2; Clause XIV.  
 Exemption, 8.  
 Fire insurance agents, 2; Clause XXI.  
 Fish, fruit, &c., venders, 2; Clause III.  
 Gas company, 2; Clause XVIII.  
 Installment houses, 4; Clause XXXIV.  
 Insurance agent; accident, 2; Clause XXIV.  
 Insurance agent; fire, 2; Clause XXI.  
 Insurance agent; industrial, 2; Clause XXV.  
 Insurance agent; industrial, collector, 2; Clause XXV.  
 Insurance agent; life, 2; Clause XXIII.  
 Insurance agent; non-resident, 2; Clause XXII.  
 License tax to be levied, &c., 1.  
 License tax to be paid by person beginning business, 7.  
 License year beginning April 1st, 1.  
 License, applicant for, must make oath, &c., 2; Clause II.  
 Lumber dealers, 4; Clause XXXV.  
 Market companies, 2; Clause XVII.  
 Merchants, &c., 5.  
 Merchants, not under state laws, 6.  
 Merchants, sample, 2; Clause IV.  
 Natural gas company, 2; Clause XIX.  
 Notice to delinquents, 16.  
 Opera houses, &c. (1,000 and over), 2; Clause XXVII.  
 Opera houses, &c. (500 and over), 2; Clause XXVIII.  
 Patent medicine vendors, 19.  
 Pawnbroker, 2; Clause VIII.  
 Penalties, 16, 17, 20.  
 Places of amusement, 2; Clause XXIX.  
 Police to enforce ordinance, 7, 21.  
 Private banker, 2; Clause VI.  
 Real estate agents, 2; Clause XX.  
 Register of vehicles for hire to be kept by city treasurer, 2; Clause XII.  
 Repeal, 9, 15, 18.  
 Sample merchants, 2; Clause IV.  
 Shows; single, 2; Clause XXXI.  
 Shows, combined, 2; Clause XXXII.  
 Shows; other, 8.  
 Sinking fund, 25.  
 Steam heating companies, 2; Clause XVI.  
 Street passenger railway companies, 10-14.  
 Telegraph companies, 2; Clause XIII.  
 Telephone companies, 2; Clause XV.  
 Theaters, see p. 387, secs. 50, 51a.  
 Theatrical, &c., companies, 2; Clause XXX.  
 Traction companies, 10, 11, 12, 13, 14.  
 Transient dealers, to take out license, 8.  
 Vehicles to be numbered, 2; Clause XII.  
 Vehicles to hire, 2; Clause XI.  
 Vendors of fish, fruit, &c., 2; Clause III.  
 Vendors of patent medicines, &c., 2, 19.

**License tax to be paid; Year begins April 1st.**

1. That there shall be levied, collected and paid within the City of Harrisburg for general revenue purposes, a license tax; and every person, firm or corporation hereinafter mentioned, shall, on or before the first day of June of each and every year, apply to the city treasurer for a license, which shall expire on the thirty-first day of March following, and the license year shall begin on the first day of April of each year, and include twelve calendar months, and the city treasurer shall issue such license upon payment to him of the respective sums for the same, as provided for in this ordinance; *Provided*, That all persons, firms or corporations commencing business after the first day of June, shall pay a pro rata of the whole year, and that all licenses shall begin on the first day of the month. 27 March, 1893. A, 286, §1.

2. The amount to be paid to the city treasurer shall be as follows:

**Auctioneer.**

Clause I. Every auctioneer whose annual gross sales shall not exceed \$25,000, shall pay \$20.00; from \$25,000 to \$50,000, shall pay \$30.00; from \$50,000 to \$75,000, shall pay \$35.00; from \$75,000 to \$100,000, shall pay \$50.00; and \$5.00 for every \$25,000 or fractional part thereof over \$100,000, and the person applying for the license must make oath before the mayor or any alderman of the city of the amount of last year's sales, on which this license shall be based, and a copy of such affidavit shall be filed with the city treasurer.

**Contractors, resident and non-resident.**

Clause II. Every contractor shall pay annually the following rates: \$2,000 to \$5,000 shall pay \$5.00; \$5,000 to \$10,000 shall

pay \$10.00; \$10,000 to \$20,000 shall pay \$15.00; \$20,000 to \$30,000 shall pay \$20.00; \$30,000 to \$50,000 shall pay \$30.00; \$50,000 to \$75,000 shall pay \$50.00; \$75,000 and upwards shall pay \$100.00.

Every non-resident contractor shall, before engaging in any contract work, procure a license from the city treasurer, and said license shall be at the same rates fixed for resident contractors.

And the person applying for the license must make oath before the mayor or any alderman of the city of the amount of last year's business, on which this license shall be based, and a copy of such affidavit shall be filed with the city treasurer.

The word contractor shall be construed to include any person or persons, firm or corporation, engaged in the business of furnishing the labor and materials, or either, and building and constructing for a fixed sum, any house, building or structure of any kind, or part thereof, and any public or private work or works, or improvement of any kind, including grading, paving, macadamizing, the building of sewers, drains and culverts, bridges and approaches, wharves, and the laying of water or other pipes and conduits.

**Vendors of fish, fruit, &c.**

Clause III. Every person selling and delivering on the streets, fish, fruit, vegetables, or other farm products not of their own raising, shall pay annually \$10.00 for each wagon used for that purpose.

**Sample merchants.**

Clause IV. Sample merchants or persons soliciting orders from others not merchants or dealers in this city, shall pay annually the sum of \$100.00.

**Book agents, &c.**

Clause V. Book agents and canvassers for periodicals or other publications, or persons soliciting advertising or printing, not in the employ of some merchant or other person or firm doing business in this city, the annual sum of \$25.00.

**Banker, private.**

Clause VI. Every private banker shall pay annually the sum of \$100.00.

**Broker.**

Clause VII. Every money or stock broker shall pay annually the sum of \$100.00.

**Pawnbroker.**

Clause VIII. Every pawnbroker shall pay annually the sum of \$100.00.

**Billiard, pool, &c., tables.**

Clause IX. The keeper of public billiard, pool and bagatelle tables, for each and every table, shall pay annually the sum of \$10.00.

**Bowling alleys.**

Clause X. The keeper of bowling alleys, for each alley, shall pay annually the sum of \$10.00.

**Vehicles for hire.**

Clause XI. The owner of every dray, hack, carriage, omnibus, cart, wagon, or other vehicle, used on the streets of the city, for hire or pay, shall pay annually the sum of, as follows: For every dray, \$1.00; for every hack, \$2.00; for every two-horse carriage, \$2.00; for every one-horse carriage, \$1.00; for every omnibus or transfer wagon used regularly for carrying passengers or merchandise for pay, \$5.00; for every other omnibus kept for hire, \$2.00; for every cart, \$1.00; for every four-horse wagon, \$3.00; for every two-horse wagon, \$2.00; for every one-horse wagon, \$1.00; for every milk wagon, \$1.00.

**Register to be kept; Vehicles to be numbered.**

Clause XII. The city treasurer shall keep in his office a book for the purpose, wherein he shall register all vehicles, licensed under the ordinance; and all vehicles as aforesaid, used in the city shall be numbered conspicuously on the right hand side thereof; such numbers shall be furnished by the city treasurer upon payment to him of the license tax imposed by this clause.

**Telegraph companies.**

Clause XIII. Every telegraph company, or its agency, shall pay annually the sum of \$100.00.

**Electric light and power companies.**

Clause XIV. Every electric light or power company, or its agency, shall pay annually the sum of \$100.00.

**Telephone companies.**

Clause XV. Every telephone company shall pay annually the sum of \$100.00.

**Steam heating company.**

Clause XVI. Every steam heating company shall pay annually the sum of \$100.00.

**Market companies.**

Clause XVII. The several market companies shall pay annually the following sums: Chestnut Street Market Company, \$100.00; West Harrisburg Market Company, \$100.00; Kelker Street Market Company, \$50.00; Farmers' Market Company, \$50.00; State Street Market Company, \$50.00.

**Gas companies.**

Clause XVIII. Every gas company shall pay annually the sum of \$100.00.

**Natural gas companies.**

Clause XIX. Every natural gas company, furnishing to citizens, shall pay annually the sum of \$100.00.

**Real estate agents.**

Clause XX. Every person who buys, sells, leases, or exchanges real estate, or collects or pays rent as a business, on commission or for any consideration, fees, or rewards, shall be held to be a real estate agent under this ordinance, and shall pay annually the sum of \$10.00.



**Fire insurance agents.**

Clause XXI. Every fire insurance agent (excepting special or general agents who have local agents acting under them) and not engaged in local business themselves, shall pay annually the sum of \$10.00.

**Insurance agents, non-resident.**

Clause XXII. Every non-resident fire, life or accident insurance agent, solicitor or broker doing business in the city shall pay annually the sum of \$10.00.

**Life insurance agents.**

Clause XXIII. Every life insurance agent shall pay annually the sum of \$5.00.

**Accident insurance agents.**

Clause XXIV. Every accident insurance agent shall pay annually the sum of \$5.00.

**Industrial insurance agents.**

Clause XXV. Every industrial insurance agent shall pay annually the sum of \$5.00.

**Industrial insurance collector, &c.**

Clause XXVI. Every collector or solicitor of industrial insurance shall pay annually the sum of \$2.00.

**Opera houses, &c. (1,000).**

Clause XXVII. Every company, firm, or individual owners of an opera house or other hall open for public amusement, with a capacity to seat one thousand persons or upwards, shall pay annually the sum of \$100.00.

**Opera houses, &c. (500).**

Clause XXVIII. Having a capacity to seat five hundred or upwards, not exceeding one thousand, shall pay annually the sum of \$75.00.

**Amusement, other places of.**

Clause XXIX. Owners of all other places of amusement shall pay annually the sum of \$50.00.

**Theatrical companies, &c.; Exception.**

Clause XXX. For theatrical companies, minstrel shows, or variety troupes giving public entertainments in the city, shall pay for each entertainment \$5.00; *Provided*, That if the entertainment is given by a company organized for encouragement of home talent, or in any hall paying the license tax described in Clauses 29, 30 and 31, they shall be exempt from the payment of the license.

**Shows, single.**

Clause XXXI. For every single show under canvas, the sum of \$100.00.

**Shows, combined.**

Clause XXXII. For every combined show under canvas, the sum of \$100.00.. Id.

**Games or devices for public amusement; Exemption.**

3. And all shows, games or devices for public amusement or instruction for which a fee or charge is made or collected, on inclosed or open space, or under canvas, occupying not more than 200 square feet, shall pay \$10.00 per day, and the same occupying not more than 700 square feet, shall pay \$25.00 per day, and the same occupying more than 700 square feet, and not exceeding 7,000 square feet, shall pay \$35.00 per day, and the same occupying 7,000 square feet or more shall pay \$75.00 per day; *Provided*, The same shall not be construed to apply to athletic sports. 6 Feb., 1878. §2, Clause 34; amended 1 Sept., 1885. 4, 21, §2.

**Butchers.**

4. Clause XXXIII. For every butcher or person or persons selling fresh meat within the city limits not of their own raising, shall pay annually the sum of \$10.00. 27 March, 1893. A, 286, §2.

**Installment houses.**

Clause XXXIV. For each and every permanent establishment selling or leasing goods upon installments, annually the sum of \$25.00.

**Lumber dealers.**

Clause XXXV. For every lumber dealer, annually, \$10.00.

**Dogs, male.**

Clause XXXVI. The owner or harbinger of any male dog or dogs shall pay annually a tax for each said dog, the sum of \$1.00.

**Dogs, female.**

Clause XXXVII. The owner or harbinger of any female dog or dogs shall pay annually a tax for each of said dogs, the sum of \$2.00.

**Merchants, &c.**

5. That merchants of all kinds, druggists, grocers, confectioners, furniture dealers, saddle or harness dealers, booksellers, stationers and jewelers, shall be and they are hereby classified according to the provisions of the laws of the commonwealth for state license, and shall pay annually for their respective licenses twenty per centum of the amount required to be paid for state license; *Provided*, That no license shall be granted for less than one dollar. *Id.*, §3.

**Merchants, not under state laws.**

6. All merchants and dealers, of whatever kind or description, not classified and not taxed under the laws of the state, relating to mercantile taxes, are hereby made a distinct class, and shall each pay license tax of one dollar. *Id.*, §4.

**License to be paid by beginners; Mayor, aldermen and constables, &c., to enforce.**

7. It shall be the duty of every person beginning business in the City of Harrisburg, for which license tax is payable, to apply forthwith to the city treasurer, and procure such license, which they shall exhibit to any officer of the city whenever thereto re-

quested, and it is hereto made the duty of the mayor and alderman, and all constables and police officers of the city to be vigilant in requiring this ordinance to be complied with and enforced. Id., §5.

**Transient dealers.**

8. That hereafter every person, whether principal or agent, entering into, beginning or desiring to begin a transient retail business in the City of Harrisburg for the sale of any goods, wares or merchandise whatsoever, whether the same shall be represented or held forth to be bankrupt, assignee's or about to quit business, or of goods damaged by fire, water or otherwise, shall take out a license for the same from the city treasurer at the rate of two hundred dollars per month, said license to be renewed monthly during the continuance of said sale, and upon failure of said person or persons to secure such license, he, she or they shall be fined in a sum not less than one hundred dollars nor more than two hundred dollars, to be collected as other fines are by law collectible, and in default of payment of said fine or fines, to be imprisoned in the jail of Dauphin county for a period not exceeding thirty (30) days. 29 June, 1899. B, 506, §1.

**Repeal.**

9. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. Id., §2.

**Traction companies (1).**

10. Any street passenger railway, traction or other company, operating a street passenger railway within the city, shall pay into the office of the city treasurer, for the use of the city, a tax for each and every car run or operated in said city, which in the aggregate, for the whole number of cars so operated, will be the sum equal to seven and one-half mills per annum upon the gross receipts of said railway, traction or other company, operating a street passenger railway within the city, from traffic originating in, or ending in the city; *Provided, however,* That said tax shall not exceed the sum of one hundred dollars per annum for any one car. 9 July, 1896. B, 92, §1.

**Traction companies (2).**

11. That whenever any street passenger railway or traction company, operating street passenger railways within the city, shall agree in the manner hereinafter provided to pay to the city at the time now required for the payment of license taxes by the ordinances to which this is a supplement, the sum of three per cent. upon the gross receipts of such street railway or traction company, or railway companies operated by such traction company, from traffic originating in or ending in the city, such payment shall be in lieu of any and all other license fees or taxes whatsoever which councils have heretofore imposed, or may hereafter impose, upon such street railway or traction companies. 14 Sept., 1903. C, 663, §1.

**Condition.**

12. Any company or companies paying such tax shall further be relieved from any responsibility for sweeping and keeping clean any part of the streets occupied by its tracks, and from maintaining any bridges occupied by the same; *Provided*, That such company or companies shall not be relieved from the duty of paving and maintaining any street occupied by its tracks with the same material with which the rest of the street may be paved, but shall be required to pave and maintain the space between the rails of its tracks and nine inches on the outside of each rail thereof with the same material with which the rest of the street may be paved, and shall be required upon any part of the street occupied by more than one track to keep and maintain in repair with the same material with which the rest of the street may be paved, the part of the street between its tracks wherever such part of the street does not exceed five feet two inches, and shall further be required to maintain the roadway of any bridge occupied by its tracks between the rails thereof, and pay in proportion to such space lying between the rails of its tracks as aforesaid for any cost for repairs to any such bridge, or of the rebuilding thereof. Id., §2.

**When in force.**

13. This ordinance shall not be in force as to any company affected hereby until such company shall, by resolution of its board of directors, a duly certified copy whereof shall be filed with the city clerk, have agreed to pave between its tracks and do all other things herein required, in which case this ordinance shall be considered as a contract duly entered into between such company or companies and the City of Harrisburg. Id., §3.

**Certain street railway and motor traction companies.**

14. That a city license of five hundred dollars (\$500) per annum on the cars operated in the City of Harrisburg be and the same is hereby authorized to be levied and assessed upon and collected from all street railway and motor traction companies doing business in said city that have not accepted the provisions of Ordinance No. 40, File of Common Council, Session 1903, approved September 14th, 1903. [C, 663]. 19 Oct., 1905. D, 430, §1.

**Repeal.**

15. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed. Id., §2.

**Delinquents, notice to.**

16. To all delinquents of the license tax after the first day of June of each year, there shall be sent a printed notice by the city clerk, that if said tax is not paid to the city treasurer within thirty (30) days, a penalty of five per cent. will be added and the same can be returned to the mayor or any alderman of the city for collection, and on all of said delinquents to whom said notices are sent, the city clerk shall receive five per cent. commission for his compensation. 27 March, 1893. A, 286, §7. 286, §7.

**Penalty.**

17. That any person failing to take out a license or refusing to pay the license tax required by this ordinance, or who shall violate any of the provisions thereof, shall, on conviction, be fined not less than ten nor more than fifty dollars, and in default of payment thereof, together with costs, be imprisoned in the county jail not exceeding thirty days. Id., §8.

**Repeal.**

18. That all other ordinances or parts thereof inconsistent with this ordinance, are hereby repealed. Id., §9.

**Vendors of patent medicines, &c.**

19. That hereafter no person or persons shall be permitted to sell, or expose to sale, any patent medicines, remedies, cures, goods or wares of any description whatsoever, upon any of the public streets, lanes or alleys, or in the market square or other public places in this city, without having first paid to the city treasurer, for the use of the city, the sum of ten dollars for an annual license for so doing, which said license shall not be transferable; *Provided*, That this ordinance shall not apply to merchants and others who sell or expose to sale goods or wares in front of their places of business or on their own premises. 2 July, 1870. 1, 430, §1.

**Penalty.**

20. That if any person or persons shall be guilty of violating any of the provisions of this ordinance, upon conviction thereof, before the mayor, shall forfeit and pay, for the use of the city, the sum of fifty dollars, on failure to pay which they may be imprisoned in the county jail not less than ten nor more than thirty days, at the discretion of the mayor. Id., §2.

**Police to enforce.**

21. That it is hereby made the duty of the police officers of this city to see that the provisions of this ordinance are strictly enforced, and that all persons coming within its provisions have obtained the proper license; *Provided*, That this license shall not be held to relieve any person or persons acting under the same from any liability that may attach under existing laws of the commonwealth. Id., §3.

**Disabled soldiers, no charge to.**

22. That disabled soldiers who are permitted to hawk and peddle throughout this commonwealth, in accordance with the provisions of an Act of Assembly entitled "An Act to permit disabled soldiers to peddle by procuring a license therefor without charge," approved April 8, A. D. 1867, be and they are hereby exempted from the payment of the license required by the provisions of an ordinance entitled "An ordinance to provide for the license of vendors of patent medicines, &c," passed July 2, 1870. 10 April, 1876. 3, 141, §1.

**Business of insurance, express and telegraph companies taxed.**

23. That an annual tax of one-third of one mill per dollar be and the same is hereby authorized and directed to be levied, as

assessed and collected, and the same is hereby levied and assessed, on the average quarterly business of all insurance companies, insurance agencies, express and telegraph companies, or other agencies or corporations doing business in the City of Harrisburg, which do not now pay city tax. 1 Aug., 1904. D, 116, §1.

**Tax to be levied and collected by cashiers, &c.**

24. That the amount of tax hereby authorized to be levied, assessed and collected, shall be retained and deducted by the cashiers, treasurers or other officers having charge of said institutions or companies, from the profits made by the same, and they shall account for and pay the same into the treasury of the City of Harrisburg—the one-half thereof on the first day of June and the other half thereof on the first day of December in each and every year; and on failure to pay the same, the property of said corporation or company shall be subject to levy and sale by any ward constable, for the payment thereof, upon a warrant to be issued by the mayor. Id., §2.

**Sinking fund.**

25. That the taxes thus collected shall constitute a sinking fund for the redemption of the funded debt of the city. Id., §3.

## Milk and Cream.

Bottles must be sterilised, 5.  
Cream, quality of, 1.  
Fine, one-half to informer, 2, 3.  
Milk, quality of, 1.  
Penalty for selling impure, 8.

Penalty for selling inferior quality, 2.  
Penalty for selling in unsterilized bottles, 6.  
Police to enforce ordinance, 4.

**Milk and cream, qualities of.**

1. That all new unskimmed milk sold or exchanged in the City of Harrisburg, the specific gravity thereof shall be 100 degrees Trallier scale lactometer; for cream, 60 degrees, same scale, with test of 60 degrees Fahrenheit thermometer. 14 Oct., 1878. 3, 214, §1.

**Penalty for inferior quality.**

2. Any person or persons who shall sell or offer to sell, exchange, or offer to exchange, within the limits of the City of Harrisburg, any new or unskimmed milk at a less degree than 100 degrees as aforesaid, or cream of a greater than 60 as aforesaid, shall, upon conviction thereof before the mayor or any alderman of said city, be fined for first offense not less than \$10 nor more than \$20; for second offense not less than \$25 or more than \$50, one-half of said fine to go to the informer, the other to the treasury of the city. Id., §2.

**Penalty for selling impure milk or cream.**

3. That any person or persons who shall sell or offer to sell, exchange, or offer to exchange, within the limits of the City of Harrisburg, any mixed, manufactured or compounded fluid, represented to be or assimilating milk or cream, of any stand or degree whatsoever, with intent to deceive, or to represent the

same as pure milk or cream, shall, upon conviction thereof before the mayor or any alderman of said city, be fined for the first offense in a sum not less than \$20 and not exceeding \$40; for the second offense not less than \$25, and not exceeding \$50, one-half of said fine or fines to go to the informer, and the other to the treasury of the city. Id., §3.

**Duty of police.**

4. It shall be the duty of the several police officers of the city to prevent violation of this ordinance. Id., §4.

**Bottles must be sterilized.**

5. That all vendors or dealers in milk in the City of Harrisburg who sell milk in bottles be and they are hereby required to sterilize and thoroughly cleanse the bottles in which milk is offered for sale before the milk shall be put into the bottles. 28 March, 1902. O, 223, §1.

**Penalty.**

6. Any person filling a bottle with milk and offering the same for sale without complying with the provisions of this ordinance shall, on conviction thereof before the mayor or any alderman of the city, be fined not less than five dollars (\$5) nor more than fifty dollars (\$50), and in default of the payment thereof be imprisoned in the jail of Dauphin county for a period not exceeding thirty days. Id., §2.

## Municipal Act, 1874.

**Acceptance of provisions of Act of May 23, 1874, by City of Harrisburg.**

1. That the City of Harrisburg hereby accepts the provisions of an Act of Assembly entitled "An Act dividing the cities of the state into three classes, regulating the passage of ordinances, providing for contracts for supplies and work for said city, authorizing the increase of indebtedness and the creation of a sinking fund to redeem the same, defining and punishing certain offenses in all of said cities, and providing for the incorporation and government of cities of the third class," approved May 23. A. D. 1874. [P. L. 230.] 19 Aug., 1874. 2, 1, §1.

## Nuisances.

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#### Swimming unlawful between 5 A. M. and 8 P. M.

1. That it shall not be lawful for any person to swim or bathe, at any time, between the hours of five in the morning and eight o'clock in the evening, in any part of the Susquehanna river, within two hundred yards of the Dauphin county shore, and between the northern and southern boundaries of the city; nor shall any person swim or bathe in the Pennsylvania canal or Paxton creek, between the hours of five o'clock in the morning and eight o'clock in the evening, within the said city, under a penalty of not less than one nor more than five dollars for every such offense. 20 Dec., 1860. 1, 4, §1.

#### No penalty when dressed.

2. That a penalty provided in an ordinance entitled "An ordinance in relation to bathing," passed December 11, 1860, shall not be held to apply to persons who shall swim or bathe, when dressed with clothing or a bathing suit, at any time of the day. 4 Aug., 1874. 3, 90, §1.

#### Fairs.

3. That so much of the act erecting the town of Harrisburg, in the county of Dauphin, into a borough,<sup>1</sup> as authorizes the holding of fairs in the said borough, be and the same is hereby repealed and made void, and the holding of fairs in the said borough of Harrisburg is prohibited and declared to be a common nuisance. 29 Jan., 1816. P. L. 33, §3.

#### Fast riding or driving horses prohibited.

4. That if any person or persons shall ride on horseback or shall drive any carriage or sleigh through or along any of the streets, lanes or alleys of the said city, faster than at a common traveling gait, or shall drive his, her or their wagon or cart through or along the same faster than a common trot or pace, he, she or they so offending, and being thereof convicted, shall forfeit and pay a fine discretionary with the mayor, not to exceed five dol-

<sup>1</sup> This act was repealed and supplied, 1 Feb., 1808. P. L. 20.



lars, for every such offense and costs of prosecution. 13 March, 1861. 1, 26, §3; amended 23 May, 1863. 1, 117, §1.

**Obstructing sewers.**

5. That if any person or persons shall willfully stop or obstruct the passage of the waters of any common sewer, made or to be made within the said city, or shall in any manner injure or damage such sewer or sewers, he, she or they so offending, and being thereof convicted in manner aforesaid, shall forfeit and pay the sum of five dollars for every such offense. 13 March, 1861. 1, 26, §9.

**Brick, lumber, wood, stone, coal, carriages, &c., not to remain in streets; Exception.**

6. That if any person or persons, corporation or corporations, except in such cases as are hereinafter excepted, shall place or cause to be placed any logs, scantling, boards, stone, brick, lumber, fire wood, stone, coal, cars or locomotives, wagons, carts, stages, carriages or any other obstruction whatever, in any part of the public streets, lanes, alleys or foot-ways within the said city, and shall permit the same, or any part thereof, to remain after notice by the supervisor to remove the same forthwith from said street, lane, alley or footway; every such offender or offenders, either neglecting or refusing to remove said obstructions, shall forfeit and pay for the use of the said city, a sum not exceeding ten, nor less than three dollars and costs, upon conviction thereof before the mayor or any alderman of said city, and also the expense of removing said obstruction; *Provided*, That in the case of fire wood and stone coal or other fuel, intended for household purposes, the owner or owners thereof shall have one day after notice by the supervisor, to remove the same. Id., §10.

**Lumber for building purposes, how regulated.**

7. That all and every person or persons who now have brought, or may hereafter bring materials into any public street, lane or alley in the said city, for the purpose of building, shall not occupy more than one-third of any of the streets, and in the lanes or alleys not more than six feet on one side; and such materials not to remain longer than six months, under the penalty of five dollars per week, upon notice and conviction thereof. Id., §11.

**Not to ride or drive over pavements.**

8. That if any person or persons shall ride or drive any horse, mare or gelding, or shall drive any wagon, cart or other wheel carriage along or over any foot pavement in any of the streets in said city, he or she so offending shall, on conviction thereof, forfeit and pay the sum of one dollar for every such offense; *Provided*, That nothing herein contained shall prevent any person from riding, driving or leading across any of the footways any carriage, cart or other vehicle, or horse or beast of burden, into or out of any lot, stable or tenement, by permission of the owner of such lot or tenement. Id., §12.

**Store boxes, &c., not to obstruct pavements.**

9. That if any storekeeper, mechanic or other person, shall lay or cause to be laid on his, her or their pavement or footway, any boxes, hogsheads, barrels, wood or other annoyance, more than five feet from the front of his, her or their house, on the pavement or footway on Front, Second, Market, State and Broad streets, and more than three feet on any other pavement or footway in any other street within the city, he, she or they so offending, shall, on conviction thereof, forfeit and pay the sum of three dollars for every such offense. Id., §13.

**Boxes, &c., on outer edge of pavement.**

10. That any storekeeper, mechanic or other person, may set up boxes or barrels on the outer edge of their pavements, for the purpose of exposing to view their goods, &c., from sunrise to sunset; *Provided*, That not more than four feet of the outer edge of the pavement be occupied along Front, Second, Market, State and Broad streets, and not more than three feet of the outer edge of the pavements be taken up thereby along the pavement in any of the other streets of the city; *And provided, also*, That the said boxes, &c., be removed at or before sundown of each day; and if any person shall occupy any greater space than is hereby allowed, or shall not remove their boxes or barrels as herein specified, he, she or they, on conviction thereof, shall forfeit and pay a sum not exceeding three dollars, nor less than one dollar, for the use of the city, for each offense. Id., §14.

**Cross-walks to be kept clear.**

11. That all cross-walks within the city are to be kept and reserved free and clear from any sleighs, wagons, carts or carriages of any kind being placed thereon, except so far as may be necessary in crossing the same, without continuing thereon any longer; and the owner or driver of any sleigh, wagon, cart or other carriages of any kind, offending against the provisions of this section, shall be fined in any sum not exceeding three dollars and costs, for each and every offense.<sup>1</sup> Id., §22.

**No building to be removed into, along or across any street without permission.**

12. That no person or persons shall hereafter remove, or cause or permit to be removed, or shall aid or assist in removing any building into, along or across any street in the City of Harrisburg, without permission from the common council or mayor, and under such restrictions, limitations and conditions as they may deem necessary to impose for the public good, under the penalty of twenty dollars, to be recovered as provided by the city charter. Id., §23.

**Sawing wood on the pavements prohibited.**

13. That hereafter no person or persons shall be permitted to saw wood on the pavements or footwalks in this city; and any person or persons offending against this provision, on conviction

<sup>1</sup> See Buildings, 45.

thereof before the mayor or any alderman of the city, shall be fined one dollar and costs for each and every offense. Id., §24.

Not to back any wagon, cart or other wheel carriage upon, over or along any foot pavement, &c.

14. That it shall not be lawful for any person or persons to back any wagon, cart or other wheel carriages upon, over or along any foot pavement or sidewalks within this city, for the purpose of unloading coal, goods or other material therefrom on the said pavements or sidewalks, or throwing the same into any cellar through the window or door thereof; and any person or persons, their aiders and abettors, or any one who shall assist or advise the same to be done, or the owner of any wagon, cart or other wheel carriage as aforesaid, who shall aid, assist or permit any violation of this section by those in his employ, with any of his vehicles as aforesaid, he, she or they so offending, and being thereof duly convicted before the mayor or any alderman of said city, shall be fined in the sum of five dollars for each and every offense. Id., §25.

Not to push or pull any hand cart, wheel carriage or wheelbarrow along or over foot pavements, &c.; Exception.

15. That it shall not be lawful for any person or persons hereafter to push or pull any hand cart or other wheel carriage, or any wheel barrow with swill, slop or mortar thereon, along and over any of the foot pavements or sidewalks, or any of the crosswalks within the limits of the said City of Harrisburg; and any person or persons who shall be guilty of a violation of this section, or any one who shall aid or assist in any way in the same (including the employer of any hand cart, wheel barrow or other wheel carriage as aforesaid), and being thereof duly convicted, as provided in the foregoing section, shall be fined in any sum not exceeding three dollars for each and every offense; *Provided*, That bread carts shall be allowed to pass over the pavements until ten o'clock A. M. of each and every day, and on Saturday from two o'clock P. M. until sundown; *And provided further*, That this section shall not be construed to include any carriage for the exercise or amusement of children. Id., §26.

Assembling of men and boys on streets or street corners, &c.

16. That the assembling and collecting together of men and boys or other persons on the streets, at the street corners and on the crossings, or on the pavements in said city, in such manner as to block up and obstruct the free passage of any of said streets, street corners, crosswalks or pavements (except when and where some lawful public meeting of the citizens may be held), is hereby declared to be a nuisance and unlawful; and it is further made the duty of the chief police constable or any other constable of this city, to disperse any assemblage or collection of men and boys or other persons as aforesaid; and in every case where men, boys or other persons as aforesaid shall refuse or neglect to disperse forthwith, upon being requested or notified so to do by any of the officers aforesaid, it shall be the duty of the chief

police constable or any other constable as aforesaid, to arrest or cause to be arrested any such person or persons so refusing or neglecting to disperse as aforesaid, and to take him, her or them before the mayor or any alderman of said city, who shall at once proceed to hear the case, and if satisfied of the guilt of the person or persons, under the provisions of this section, the said mayor or alderman as aforesaid, shall impose a fine of one dollar and costs upon the person or persons so found guilty; and in case the offender or offenders shall refuse or be unable to pay the fine as aforesaid, he, she or they shall be committed to the Dauphin county prison for any period of time not exceeding twenty-four hours, at the discretion of the said mayor or alderman before whom the case may be heard. Id., §28.

**Repeal.**

17. That all other ordinances heretofore passed on the subjects embraced within the provisions of the foregoing sections, so far as they may be inconsistent therewith, or contrary thereto, be and the same are hereby repealed. Id., §30.

**Cars, &c., not to obstruct streets, &c.**

18. That from and after the first day of January, Anno Domini one thousand eight hundred and sixty-three, the Cumberland Valley Railroad Company, the Pennsylvania Railroad Company, the North Central Railroad Company and the Reading and Lebanon Valley Railroad Company, or any other railroad company, or any person or persons employed by or under them, or either of them, or acting under their orders, be and they, or either of them, are hereby prohibited from obstructing the streets or highways of said city by permitting cars, trains of cars, locomotives or any other moveable property to remain upon said streets or highways, so as to prevent free ingress and egress to all and every person traveling on said streets or highways, for a longer period than ten minutes at any one time; and that any violation of this ordinance shall subject the offender or offenders to a penalty of five dollars for each and every offense, to be recovered before the mayor or any alderman of the said city, in the same manner as other fines and penalties are by law recoverable for the use of the city. 29 Dec., 1862. 1, 101, §1.

**Not to run at a speed exceeding seven miles per hour.**

19. That no locomotive engine, car or train of cars with or without a locomotive attached thereto, shall be suffered by the engineer or conductor thereof to run on any of the railroads within the limits of the city, at a greater speed than at the rate of seven miles to the hour; and any of the railroad companies, their engineers, conductors or other persons who shall violate this provision, shall be fined the sum of ten dollars, to be recovered before the mayor or any alderman of the said city, in the same manner as other fines and penalties are by law recoverable for the use of the city. Id., §2.

**To reduce the speed of the cars; Notice and warning.**

20. That the several railroad companies that run their locomotives or cars within the limits of the city, shall, by themselves, their engineers, conductors or other agents reduce the speed of their respective locomotives and cars to the rate as provided in section second, and give notice of their approach to the street crossings at Second and Mulberry and at Market street, by a flagman or watchman to be stationed at each of the said crossings, whose duty it shall be to notify and warn all persons of the approach of any locomotive or cars to the said crossings; which said notice shall commence when the locomotives or cars are at a distance not less than five hundred feet from said streets, and continue until they have passed; and the several railroad companies are hereby required to appoint and station a flagman or watchman at each of the said streets, under a penalty of one hundred dollars for neglect, and the further penalty of ten dollars for every day's neglect or omission, from and after the first day of January, Anno Domini one thousand eight hundred and sixty-three, to station and require the daily attendance of a competent person as flagman or watchman aforesaid; and for every neglect of the duties required by this section in giving notice, the company shall be liable to a fine or penalty of ten dollars, to be recovered, with the other penalties imposed by this section, before the mayor or any alderman of the said city, in the same manner as other fines and penalties are by law recoverable, for the use of the city. *Id.*, §3.

**To have a good and sufficient spark-catcher, &c.**

21. That it shall not be lawful for any engineer or other person to run a locomotive engine, with or without cars attached thereto, through or on any of the streets in the improved parts of the city, unless said engine has a good and sufficient spark-catcher over the stack, under a penalty of five dollars for each and every offense; and it shall not be lawful for any engineer or other person in charge of a locomotive engine, to raise the damper so as to cause the ashes and fire to be distributed along the improved parts of the city, under a penalty of five dollars for each offense, to be recovered, with the other penalties imposed by this section, before the mayor or any alderman of the said city, in the same manner as other fines and penalties are by law recoverable for the use of the city. *Id.*, §4.

**Steam not to escape unnecessarily.**

22. That it shall not be lawful for any of the engineers or firemen on any of the locomotive engines, on the railroads in the city, where said roads are located on any of the streets of the city, unnecessarily to open, or allow to be opened, the cylinder cocks of the engines, so as to permit the steam to escape, under a penalty of not less than one nor more than five dollars for every offense, to be recovered as other penalties are by law recoverable. 6 Aug., 1864. 1, 171, §1; amended 1 Dec., 1866. 1, 300, §1.

**Snow to be removed.**

23. That it shall be the duty of all lotholders or tenants, as the case may be, in the city limits, within twenty-four hours after the fall of a snow, to have the same removed from their pavements and gutters into the streets and alleys in front of their buildings and lots, under the penalty of one dollar for each lot not exceeding twenty-six feet three inches front, for each and every day the snow is allowed to remain on their pavements or gutters, or either of them, said penalty to be recovered for the use of the city as other penalties are by law recoverable. 6 Feb., 1869. 1, 379, §1.

**Repeal.**

24. All ordinances, parts of ordinances or resolutions inconsistent herewith, are hereby repealed. Id., §2.

**Dead carcasses to be removed in covered wagons.**

25. That from and after the passage of this ordinance no person or persons whomsoever shall have, drag or convey through or over any of the streets, lanes or alleys of this city the dead carcass of any animal whatsoever, unless the same be covered or enclosed in a wagon and concealed from the public view, and any person or persons so offending and being thereof convicted before the mayor or any of the aldermen of said city, shall be fined the sum of ten dollars, to be recovered as other fines are recovered by law, for the use of the City of Harrisburg. 4 Nov., 1872. 7, 587, §1.

**Slaking of lime on paved streets; Mortar.**

26. That no person or persons, firm or corporation shall hereafter slake any lime, or place any mortar or lime on the surface of any paved street in the City of Harrisburg. 11 Oct., 1894. A, 561, §1.

**Penalty.**

27. Any person or persons, firm or corporation violating the provisions hereof, upon conviction thereof, shall be fined not less than five dollars, and not more than fifty dollars and costs, together with judgment of imprisonment not exceeding thirty days, if the amount of said judgment and costs shall not be paid. Id., §2.

**Street signs, defacing of.**

28. That any person or persons who shall deface, injure, break or mutilate any street sign shall, upon conviction thereof, be fined not less than five dollars, or more than fifty dollars, together with judgment of imprisonment not exceeding twenty days, if the amount of said fine and costs be not paid. 19 Nov., 1894. A, 591, §1.

**Half of fine to informer.**

29. One-half of the fine collected as aforesaid shall be paid to the person making the information in each case. Id., §2.

**Horses in market wagons not to remain on highways unnecessarily.**

30. That it shall be unlawful for the venders in and about the different markets of the city to permit their horses to be and re-

main on the streets and highways of the city during market hours for a longer time than is necessary for the unloading and loading of the vehicles. 17 Jan., 1896. B, 16, §1.

**Penalty.**

31. Any person or persons violating the provisions hereof, shall, upon conviction thereof before the mayor or any alderman of the city, be fined not exceeding ten dollars for each offense, together with judgment of imprisonment for not more than ten days, if the amount of the fine and the costs be not paid. Id., §2.

**Ordinance to be posted.**

32. That upon the passage and approval of this ordinance the city shall have this ordinance printed and posted in a conspicuous place about the markets of the city. Id., §3.

**Air guns, &c., golf and shinny prohibited.**

33. That any person who shall discharge any bow guns, air guns, sling shots or play the game of catty, shinny or golf or any device dangerous to person or property [in the City of Harrisburg (see title) ], shall, upon conviction thereof before the mayor or any alderman, be fined not less than two or more than twenty dollars, and in default of payment thereof, be imprisoned not exceeding five days. 31 Jan., 1896. D, 18, §1.

**Persons possessing air guns, &c., subject to same penalty as when using them.**

34. That any person or persons found in possession of any bow gun, air gun, sling shot or any device the use of which is dangerous to person or property, shall, upon conviction thereof, before the mayor or any alderman, be subject to the same penalty as though discovered in the act of using the same. Id., §2.

**Repeal.**

35. All ordinances or parts of ordinances inconsistent with this ordinance be and the same are hereby repealed. Id., §3.

**Throwing of circulars, &c., prohibited.**

36. That the casting, throwing or in any manner depositing of bills, dodgers, posters, circulars, cards, waste paper, the sweepings from stores and the offal from fruit stands upon the highways of the city are hereby prohibited. 28 March, 1899. B, 477, §1.

**Penalty.**

37. Any person, persons, firm or corporation violating or causing to be violated any of the provisions of this ordinance shall, on conviction thereof before the mayor or any alderman of the city, be fined in the sum of not less than five dollars or more than twenty-five dollars and the costs of prosecution for each violation; and in default of the payment of said fine and costs, shall be imprisoned in the jail of Dauphin county for a period not exceeding twenty-five (25) days. Id., §2.

**Patent medicine, samples of medicine, not to be peddled, &c.**

38. That on and after the passage and approval of this ordinance it shall be unlawful for any person or persons, firm or cor-

poration to peddle, distribute or cast upon the public highways or premises within the City of Harrisburg any patent medicine or samples of medicines of any kind whatsoever. 12 Dec., 1899. B, 550, §1.

**Penalty.**

39. That any person or persons, firms or corporations who shall distribute in any highways or premises in the City of Harrisburg any patent medicine or samples of medicine of any kind whatsoever shall, upon conviction before the mayor or any alderman, be fined not less than ten dollars or more than fifty dollars, or be imprisoned not less than ten days or more than thirty days, or both, for each offense. Id., §2.

**Repeal.**

40. All ordinances or parts of ordinances that may conflict with this ordinance be and are hereby repealed. Id., §3.

**Ringling of bells, &c., when delivering goods on Sunday, prohibited after 9 A. M.**

41. That the ringling of bells, blowing of horns and sounding of gongs by dealers in milk and ice, while delivering goods within the limits of the city on Sunday, after nine o'clock a. m., are hereby prohibited. 2 Jan., 1900. B, 564, §1.

**Penalty.**

42. Any person violating this ordinance shall, on conviction thereof before the mayor or any alderman of the city, be fined in the sum of five (\$5.00) dollars and costs for each offense; and in default of the payment thereof shall be imprisoned in the jail of Dauphin county for a period not exceeding ten days. Id., §2.

**Ashes, &c., removal of, regulated.**

43. That no person or persons shall collect or remove ashes, manure, night-soil, kitchen garbage and offal from any stable, dwelling house, hotel, restaurant, or other building, or convey the same through any street, lane, court or alley of the City of Harrisburg, except in water-tight carts, wagons, or other vehicles, and securely covered so that none of the contents shall fall, leak or spill therefrom, or be exposed to public view. 29 May, 1900. B, 671, §1.

**Penalty.**

44. Any person violating any provision of this ordinance shall, on conviction thereof before the mayor or any alderman of the city, pay a fine of five dollars (\$5.00) and costs of prosecution, and in default of the payment thereof shall be imprisoned in the county jail for a period not exceeding thirty (30) days. Id., §2.

**Repeal.**

45. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed. Id., §3.

**Coal and dirt to be hauled in non-leaking carts.**

46. That hereafter the hauling or delivery of coal or dirt over the highways of the city shall be done in carts or wagons with



boxes or beds that are tightly constructed, so that the coal or dirt cannot leak through or be scattered upon or along the highways. 11 July, 1902. C, 293, §1.

**Penalty.**

47. Any person hauling or delivering coal or dirt and permitting it to spill or be scattered over any of the highways of the city shall, on conviction thereof before the mayor or any alderman of the city, be fined five dollars and costs or be imprisoned in the jail of Dauphin county for a term not exceeding thirty days. Id., §2.

**Fast driving on Mulberry street bridge.**

48. That any person or persons who shall ride on horseback, or who shall drive any carriage, wagon, cart, sleigh, or other vehicle, over what is known as the Mulberry street overhead bridge, faster than a walk, shall, upon conviction thereof before the mayor or any alderman of the city, be fined not exceeding the sum of ten (\$10) dollars for each and every such offense, to be recovered, with costs, as all fines and penalties are now by law recoverable, and in default of the payment of said fine be imprisoned in the jail of Dauphin county for a period not exceeding thirty days. 30 Oct., 1902. C, 386, §1.

**Oils, &c., not to be spilled on asphalt pavement.**

49. That on and after the passage of this ordinance it shall be unlawful for any person or persons to pour, spill or permit to be spilled or drip upon any asphalt pavement laid on any street, lane or alley or any public place within the city any kerosene, benzine or other similar oil or oily substance or liquid. 29 Dec., 1902. C, 442, §1.

**Oil delivery wagons regulated.**

50. All oil delivery wagons or tanks shall have securely fastened under the taps or faucets thereunto attached an absolutely oil- or water-tight zinc lined box or tray; and in filling any measure or other vessel from said taps or faucets such measure or other vessel must be held so that any drip or overflow shall fall into said box or tray; and in removing the same from over the asphalt pavement, no drip or overflow from such measure or other vessel must be permitted to fall upon such pavement, and no receptacle for holding oil shall be placed on the asphalt pavement. Id., §2.

**Penalty.**

51. Any person, persons, firm or corporation violating the provisions of this ordinance shall, upon conviction thereof before the mayor or any alderman of the city, pay a fine not to exceed the sum of twenty-five dollars (\$25.00), and in default of the payment thereof be imprisoned in the jail of Dauphin county for a period not exceeding thirty days (30). Id., §3.

**Repeal.**

52. That all ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. Id., §5.

**Obstruction of sidewalks prohibited.**

53. That no person shall place or cause or suffer to be or remain on the sidewalks or other portions of the streets or avenues of the city, any wagon, carriage, dray, cart, other wheeled vehicle, sleigh or sled, which is not in use and to which a horse or other draught beast is not harnessed, except as provided in an ordinance, entitled "An ordinance prohibiting venders in the markets of the city from permitting their horses to remain on the highways of the city during market hours," approved the seventeenth day of January, A. D. 1896. 16 March, 1904. D, 62, §1.

**Penalty.**

54. Every person who shall violate any of the provisions of this ordinance shall pay a fine of ten dollars, recoverable with costs before the mayor or any alderman of the city, and in default of the payment of the said fine and costs shall be imprisoned in the jail of Dauphin county for a period not exceeding ten days. Id., §2.

**Expectorating on sidewalks, &c.**

55. That from and after the passage of this ordinance expectorating upon the sidewalks of the city, on the floors and passageways of public buildings, on the floors of public conveyances propelled by steam, electricity, or otherwise, on the floors of theaters, railroad stations and other indoor places resorted to by the public, is declared to be a nuisance prejudicial to the health of the city, and is prohibited. 17 March, 1905. D, 263, §1.

**Penalty.**

56. Any person violating this ordinance shall pay a fine of one dollar (\$1.00), recoverable with costs before the mayor or any alderman of the city, and in default of the payment of said fine and costs shall be imprisoned in the jail of Dauphin county for a period not exceeding ten days. Id., §2.

**Police and sanitary officers to enforce ordinance.**

57. It shall be the duty of the police officers and sanitary officers to see that the provisions of this ordinance are strictly enforced. Id., §3.

**Repeal.**

58. That all ordinances or rules in conflict with this ordinance be and they are hereby repealed. Id., §4.

**Hawking, &c., under certain conditions prohibited.**

59. That the hawking, peddling or vending of goods, wares or merchandise of any kind within the limits of the city, by public outcry, or by the ringing of bells, or by the sounding of gongs, or by the use of any other device for making a noise, be and the same is hereby prohibited between the hours of nine o'clock p. m. and seven o'clock a. m.; but the delivery of milk, ice and other goods, wares or merchandise may be made between the hours named, provided such delivery is not accompanied by public outcry, or the ringing of bells, or the sounding of gongs, or other noise usually incident to hawking, peddling and vending. 9 June, 1905. D, 345, §1.

**Penalty.**

60. That any person who shall be convicted before the mayor or any alderman of the city of violating the provisions of this ordinance, shall be fined not exceeding ten dollars (\$10) and costs of prosecution for each offense, and upon failure to pay the said fine and costs, shall be imprisoned in the jail of Dauphin county for a period not exceeding thirty days. Id., §2.

## Obstructions.

[See NUISANCES—STREETS.]

## Officers and Employes.

[See CLERK TO MAYOR.]

Board of revision of taxes, 1, XI.	Highway department, 1, VII.
Building inspector's department, 1, XIII.	Law department, 1, VI.
City clerk's department, 1, III.	Legislative department, 1, II.
City engineer's department, 1, VIII.	Repeal, 3.
Executive department, 1, I.	Salaries payable semi-monthly, 2.
Finance department, 1, V.	Sanitary department, 1, X.
Fire department, 1, IX.	Treasury department, 1, IV.
Fire and police alarm department, 1, XII.	Water department, 1, XIV.

1. That the number and compensation per annum of the officers and employes of the City of Harrisburg beginning with the first Monday of April, A. D. 1903, shall be as follows, to wit:

**I. Executive department.**

Mayor, \$2,000.00; chief of police, \$1,080.00; lieutenant of police, \$960.00; three sergeants of police, each, \$900.00; forty-two police constables, each, \$780.00; two drivers for the patrol and ambulance wagons, each, \$600.00; one messenger and janitor, \$600.00.<sup>1</sup>

**II. Legislative department.**

Clerk of the select council, \$1,000.00; one page to select and common councils, \$660.00.

**III. City clerk's department.**

City clerk, \$1,500.00; one stenographer to the city clerk, \$600.00.

**IV. Treasury department.**

City treasurer, \$1,500.00; one chief clerk to the city treasurer,<sup>2</sup> \$900.00; one assistant clerk to the city treasurer, \$720.00.

**V. Finance department.**

City controller, \$1,500.00; one clerk to the city controller, \$900.00.

**VI. Law department.**

City solicitor, \$2,500; one stenographer to the city solicitor, \$600.00.

<sup>1</sup> See Clerk to Mayor.

<sup>2</sup> See City Tax Collector.

**VII. Highway department.**

Highway commissioner, \$1,500.00; one clerk to the highway commissioner [and building inspector], \$900.00.

**VIII. City engineer's department.**

City engineer, \$2,500.00 (\$1,500 of which shall be paid out of the general appropriations and the remaining \$1,000 shall be paid by the board of public works until otherwise provided); one assistant city engineer, \$1,200.00; one level-man, \$900.00; one transit-man, \$900.00; one rod-man, \$400.00; one stenographer, \$600.00.

**IX. Fire department.**

One chief engineer, \$1,080.00; one assistant engineer, \$100.00.<sup>1</sup>

**X. Sanitary department.**

Two employes, each, \$780.00; one messenger, \$200.00.

**XI. Board of revision of taxes and appeals.**

Five members, \$4.00 per day each for every day actually employed not exceeding one hundred days; and for every day employed exceeding one hundred days the sum of \$2.00 per day each; one clerk, \$300.00; three city assessors, each, \$600.00; ten assistants to the city assessor, who shall serve at each triennial assessment, \$2.50 per day, each, for services within the limit of the law (i. e. sixty days).

**XII. Fire and police alarm department.**

One superintendent, \$900.00.

**XIII. Building inspector's department.**

One building inspector, \$1,200.00.

**XIV. Water department.**

Chairman of the board of water commissioners, \$200.00; two commissioners, each, \$100.00; one secretary, \$1,200.00; one chief engineer at the water house, \$1,300.00; one assistant engineer, \$900.00; four firemen, each, \$660.00; one oiler, \$600.00; one foreman of the pipe line, \$1,000.00; three employes of the pipe line, each, \$660.00; one inspector and meter reader, \$900.00; one inspector of water leaks, \$660.00; one watchman at the reservoir, \$540.00; one keeper of the reservoir park, \$420.00. 5 May, 1903. C, 552, §1; amended 16 March, 1904. D, 69, §1; 24 Feb., 1905. D, 253, §1; 8 March, 1906. D, 508, §1; 23 March, 1906. D, 541, §1, and 10 July, 1906. D, 655, §1.

**Salaries payable semi-monthly.**

2. That the city treasurer shall pay to each of the above-named officers and employes, semi-monthly, the pro rata amount due them on presentation of a warrant properly drawn, and countersigned by the city controller. 5 May, 1903. C, 552, §2.

**Repeal.**

3. That all ordinances and parts of ordinances inconsistent herewith be and the same are hereby repealed. Id., §4.

<sup>1</sup> Increased to \$200.00 for the year 1906, by the General Appropriation Ordinance.

## Ordinances.

**Continuing in force all ordinances of city not inconsistent with Act of May 23, 1874.**

1. That all ordinances of the City of Harrisburg now in force and not inconsistent with the provisions of an Act of Assembly, entitled "An Act dividing the cities of the state into three classes, etc., etc., and providing for the incorporation and government of cities of the third class," approved May 23, 1874, shall be and remain in full force and virtue, until the same shall be repealed, altered or supplied by ordinances duly enacted in accordance with the authority given in the aforesaid Act of Assembly. [P. L. 230.] 12 Oct., 1874. 2, 3, §1.

## Page to Councils.

**Duties, 2.**  
**May be suspended, 3.**  
**Salary (\$25 per month), 5.**  
**Substitute, 4.**

**Term, 1.**  
**Under committee on city property, 3.**  
**Vacancy, how filled, 3.**  
**When elected, 1.**

### **When elected; Term.**

1. That on the second stated meeting night in April, 1878, and annually thereafter at the same time, the select and common council shall in joint convention elect one person who shall be styled page to councils, whose office shall be one year unless removed. 6 Feb., 1878. 3, 198, §1.

### **Duties.**

2. That said page shall have charge of the rooms in which the select and common council hold their respective meetings, keep the same clean and in proper order, and serve all notices of special meetings of councils or committees. Id., §2.

**Under committee on city property, who may suspend, &c.; Vacancy, how filled.**

3. That the said page shall be under the supervision of the committee on city property, etc., who shall, at any time, have the power to suspend him for any misdemeanor in office or dereliction of duty, after which they shall report the same to councils with the reasons for such suspension at the next stated meeting, when councils shall proceed in joint convention to consider the action of said committee, and, if the same be approved, to select a person to fill the vacancy, until the next annual election. Id., §3.

### **Substitute.**

4. That in case of any vacancy in said office by death, resignation or otherwise, the committee on city property, etc., shall appoint a suitable person to perform the duties of the office, until the next stated meeting of councils, when the same shall be reported, and councils shall, in joint convention, proceed to elect a person to fill the vacancy until the next annual election. Id., §4.

### **Salary (\$25 per month).**

5. That the salary of the said page shall be twenty-five dollars (\$25) per month, to be paid in like manner as the salaries of other officers are now paid. Id., §5.

## Park Commission and Parks.<sup>1</sup>

Authorized to employ engineers, &c.,  
 6. Authorized to lease real property, 10.  
 Authorized to let unused ducts in  
 city's conduit, 10.  
 Boulder memorial in Lincoln Park, 8.  
 Commissioners, number of, 1.  
 Commissioners, duties of, 2, 4  
 Commissioners, election, regulated, 2.  
 Commissioners, qualifications of, 1.  
 Grass plots, commission to have  
 charge of, 9.

Jurisdiction, 4.  
 Lincoln Park, memorial in, 8.  
 Meetings, minutes, 8.  
 Organization, 8.  
 Park commission created, 1.  
 Parks under police jurisdiction, 4.  
 Power to acquire lands, 5.  
 Removal, 2.  
 Repeal, 7, 10a.  
 Reports, 8.  
 Rules, 11.  
 Secretary, salary of, 6.

**Harrisburg park commission created; Number of members; Eligibility.**

1. That there shall be and hereby is created a department of the government of the City of Harrisburg to be known as the Harrisburg park commission; that it shall consist of five members who are duly qualified electors and freeholders of said city; that they shall not be connected with the city government in any other way; and that no two persons from the same ward shall be eligible to serve on said commission at the same time. 30 Oct., 1902. C, 388, §1.

**Election regulated; Term, &c.; Vacancies, how filled; Removal.**

2. That within ten (10) days after the passage and approval of this ordinance, and every five years thereafter, the select and common councils of the City of Harrisburg shall meet in joint convention and elect five persons qualified under this ordinance to constitute said commission. Each councilman shall be entitled to vote for three commissioners, and the five persons receiving the highest number of votes shall be declared elected; that they shall serve for the term of five years, and until their successors shall be duly elected and qualified; that they shall take and subscribe to the oath of office prescribed by all officers of the several cities of the third class; and shall not receive any compensation for the services performed by them as such commissioners, nor shall they be, either directly or indirectly, interested in any contract with said city under their authority and control. Any commissioner who shall absent himself from five successive meetings without good and sufficient cause, shall be regarded as having resigned as such commissioner, and his office shall be declared vacant. Whenever a vacancy shall occur in said commission from

<sup>1</sup> By ordinance of 15 Feb., 1904. C, 729, the park commission was authorized to purchase certain real estate in Susquehanna township, Dauphin county, Pa., containing 6.46 acres, for the purpose of a public park. By the ordinance of 29 March, 1904, D, 72, the city was authorized to enter upon and appropriate certain private property situate in Susquehanna township, Dauphin county, Pa., belonging to Mrs. Annie C. Doehne, for the purpose of enlarging and extending the public park known as Reservoir Park; and the park commission was directed to take

possession of the same. By ordinance of 17 March, 1905. D, 285, the city was authorized to purchase certain private property partly within the corporate limits of the city and for the most part within the township of Susquehanna, county of Dauphin and state of Pennsylvania, containing about 666.6 acres, for the purpose of making and maintaining a public park in the City of Harrisburg, and by the ordinance of 20 Jan., 1906. D, 493, the city was authorized to acquire an additional tract of land in Susquehanna township, containing 34.9 acres.

any cause, it shall be filled by councils in joint convention on the principle that the minority vote of the joint convention which elected said commission shall be represented by two members, and the person chosen shall serve for the unexpired term of the commissioner whose place was vacated. If more than one vacancy shall occur at the same time councils shall fill the same for the unexpired term thereof in the manner herein prescribed for the election of said commissioners; *Provided, however,* That the minority vote of the joint convention shall always have two representatives on said commission. Any and all of said commissioners may be removed from office upon a two-thirds vote of councils, either in joint convention or by joint resolution. *Id.*, §2.

**Organization; Meetings; Reports.**

3. The said commissioners shall organize not later than the second Monday succeeding their election, and annually thereafter; shall hold regular meetings; keep full and complete minutes thereof, and make and enforce all necessary rules and regulations for the proper management of their department; they shall, at least once in every three months, make a report to councils of the work performed by them, and shall also make an annual report of all their proceedings on the first Monday of January of each year. *Id.*, §3.

**Jurisdiction; Duties.**

4. The said commission shall have general and exclusive charge, control and management of all public parks, squares, grounds and open places acquired or dedicated to public use since January 1, 1874, and which may hereafter be acquired or dedicated to public use as parts of or additions to the public park system of the City of Harrisburg, whether within or without the limits of said city, but not including streets in parks within the city limits. *Provided, however,* That the Reservoir Park, at present under the control of the reservoir park commission, shall remain under the present management until such time as the Harrisburg park commission shall decide that said Reservoir Park shall be made a park in the general park system of the city, when notice of such decision shall be given by the said Harrisburg park commission to the reservoir park commission not later than the first day of October in any year, that the said Harrisburg park commission will take possession and assume control of the said Reservoir Park on the first Monday of April of the next succeeding year. It shall have sole charge of the preservation, development and adornment of said parks and parkways, and is hereby empowered to make and alter from time to time all needful rules and regulations for the maintenance of order, safety and decency in said parks, the prevention of any destruction of property or misuse of the same, and the protection and preservation of said parks, both within and without the limits of the city, and to affix penalties for disobedience thereto, which rules and regulations shall have the force of ordinances of the City of Harrisburg; *Provided,* That no such rule or regulation shall be of any effect until it

shall have been first approved by the select and common councils of said city and then published at full length in one or more of the daily newspapers published in the City of Harrisburg and also printed and posted in a conspicuous place within the limits of the parks or places to which said regulation is intended to apply. For the purpose of enforcing such rules and regulations, all such parks and places, whether within or without the limits of said city, are hereby placed under the police jurisdiction of the City of Harrisburg. Any member of the police department, or the superintendent of any park, may arrest, without warrant, in any of such parks or places, whether within or without the limits of the City of Harrisburg, any person who has broken any park rule or committed any other offense in said park. *Id.*, §4.

**May acquire lands, &c.; Limitations.**

5. Said commission, upon authority from councils by ordinance passed and approved by the mayor, shall have power in the name and on behalf of the City of Harrisburg to procure, by gift, purchase, lease, exchange or other contract, or by condemnation as provided by law, real property whether within or without the limits of the City of Harrisburg, for the purpose of providing public parks or the enlarging of existing parks; *Provided, however*, That in no case shall an expenditure be made in excess of the amount previously appropriated for such purpose. *Id.*, §5.

**Authorized to employ engineers, &c.**

6. Said commission may employ a secretary, who shall not be one of its own members, at a salary of not exceeding three hundred (\$300) dollars per annum, and shall have power to appoint or employ such superintendents, engineers and other officers and employes as it may deem necessary, and shall prescribe and define their respective powers, duties and authority, and fix and regulate the compensation to be paid to the several persons so employed. All costs and expenses incurred in the proper discharge of the powers and duties hereby imposed upon said commission shall be paid by warrants drawn by the president of said commission, duly attested by the secretary thereof, upon appropriations to be provided by councils. *Id.*, §6.

**Repeal.**

7. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed. *Id.*, §7.

**Permission to place boulder in Lincoln Park to memory of Ferdinand Durang.**

8. WHEREAS, Ferdinand Durang, a private soldier from Harrisburg, in the company of Captain Thomas Walker, First Regiment, First Brigade of Pennsylvania, adapted the music of "The Star-Spangled Banner" from the tune of "Anacreon in Heaven" or the "Battle of the Wabash," at Camp Springfield, near Baltimore, in the presence of the enemy; therefore,

SECTION 1. *Be it ordained by the Select and Common Councils of the City of Harrisburg, and it is hereby ordained by authority*



*of the same*, That permission be and the same is hereby granted to the Keystone Chapter of the Pennsylvania Society of the Daughters of 1812 to place in Lincoln Park a large boulder, appropriately inscribed, to perpetuate the memory of Ferdinand Durang. 1 April, 1902. C, 231.

**Grass plots.**

9. That the Harrisburg park commission be and it is hereby directed to construct, take charge and maintain all grass plots duly authorized, and which may hereafter be authorized to be constructed within the curb lines of city streets, and exercise jurisdiction over said grass plots in the same manner as if they were parts of the public park system of the city. 23 July, 1904. D, 106, §1.

**Property for park purposes may be acquired; Unused ducts in city's conduit may be leased.**

10. That the Harrisburg park commission be, and the same is hereby authorized to procure, by lease, real property for public park purposes, subject to the approval of councils by joint resolution as to the terms and conditions thereof; and also to lease or let the unused ducts in the city's conduit, along Front and Market streets, upon such terms and conditions as may likewise be approved by councils. 19 June, 1906. D, 481, §1.

**Repeal.**

10a. That all ordinances, or parts of ordinances, in conflict herewith be, and the same are hereby repealed. Id., §2.

**Park Rules.**

11. The following sections are published in pursuance of Article VI, Section 8, of the Act of Assembly, approved the 23d day of May, A. D. 1889, entitled "An act providing for the incorporation and government of cities of the third class."

Section 1. The term "parks" used herein shall be construed to include all lands and waters under the control of the Harrisburg park commission, or that may come under its control while these regulations are in force.

The term "commission" shall refer to the Harrisburg park commission.

Section 2. The parks of the City of Harrisburg are for the benefit and pleasure of the whole public, and all persons who use said parks shall be subject to the rules of the park commission.

The roadways in the parks shall not be used by any vehicles except those employed for purposes of pleasure or recreation and by pleasure-seekers on horseback.

The walks and foot-bridges shall be used exclusively by pedestrians, except that baby carriages, invalid chairs and childrens' carts may pass thereon, but loafing or prolonged standing shall not be allowed on the same.

This section shall not apply to vehicles used by order of the commission.

Automobiles may be forbidden to run in all or part of any park

or parkway at the option of the commission, which shall in that case post legible notices at the entrances of said park or parkway.

The parks shall be closed from twelve o'clock midnight, till sunrise, and all persons found lounging between these hours may be arrested for trespass.

Section 3. No person shall commit any of the following acts within the parks or parkways:

1. Commit any disorderly or immoral acts.
2. Be intoxicated.
3. Throw stones or missiles.
4. Utter loud, profane, offensive or indecent language.
5. Play any game of cards or chance.
6. Tell fortunes.
7. Beg.
8. Publicly solicit subscriptions.
9. Drive or lead a horse not well broken.
10. Allow any dog or horse to run at large.
11. Throw, deposit or drain any offensive substance of any kind on or into any park, parkway, fountain, spring or other park water-way, or deposit waste paper, fruit, refuse, lunch baskets or other refuse in any place save the receptacles therefor.
12. Sell any intoxicating liquors in any park or along any parkway.
13. Bathe in park waters, without having the body concealed by suitable covering, extending from the knees to the shoulders.

Section 4. No person shall commit any of the following acts within said park or parkways, without the previously obtained consent of the commission:

1. In any manner pull, injure or break any flower, fruit, plant, tree, grass, turf, pump or water fixtures, or other structure.
2. Write, paint or carve on any tree, bench or structure.
3. Climb any tree, or tie any horse to a tree.
4. Carry or discharge any firearms or fireworks or send up any balloon.
5. Ride or drive any animal or vehicle at a speed exceeding eight miles per hour. This shall not apply to the vehicles of the fire or police departments, ambulances or vehicles used by physicians when actually engaged in responding to emergency calls.
6. Permit any animal except horses and led dogs to enter said parks.
7. Obstruct in any way a roadway or path.
8. Carry any flowers or shrubs, firearms, sling-shot, ax, saw, shovel or spade within reservoir park.
9. Keep or offer anything for sale.
10. Post or display any sign, banner or advertisement.
11. Play any music.
12. Deliver any public speech.
13. Hold any public meeting or engage in any marching or driving, as members of a military, political or other organization.
14. Conduct any funeral procession or vehicles containing the body of a deceased person.

15. Solicit or invite passengers for hire for any boat or vehicle.
16. Build any fire.
17. Take any ice from any park waters.
18. Fish in any park waters.
19. Enter any place where the words "No Admittance" or "Keep Off" shall be displayed.
20. Enter or leave except at the established ways of entrance and exit.
21. Place or propel any boat or other craft upon park waters.
22. Land from any boat at a place not designated by said commission for that purpose.
23. Injure or unnecessarily disturb any fish, water fowl, birds or animals.
24. Occupy in any way the slopes of the river park, except as a landing place.
25. Hold any picnic at a place not designated for that purpose.
26. Play baseball, tennis nor any other game or sport at a place not designated for that purpose.
27. Bathe in any place not designated by the commission.
28. Violate the regulations relating to the use of any building or place.
29. Injure any notice posted by order of said commission.

Section 5. Any person violating any of the foregoing rules and regulations shall, upon conviction thereof before the mayor or any alderman of the city, be sentenced to pay a fine of not more than fifty dollars (\$50) and the costs of prosecution, and in default of the payment thereof be imprisoned in the jail of Dauphin county for a period not exceeding thirty (30) days. 14 Sept., 1905. D, 421.

## Passenger Railways.

[See STREETS—SUBWAYS.]

Acceptance of ordinance, &c., 16.  
 Consent of city, certificate, 11.  
 Consent of city, how given, 12.  
 Construction regulated, 13, 14.  
 Dirt, snow, &c., not to be piled on streets, 1.  
 Highways to be put in good condition, promptly, 9.  
 Operations regulated, 15.  
 Penalty for failing to clear and sweep highways, 6.

Penalty for piling dirt, snow, &c., on streets, 2.  
 Penalty for violating ordinance as to construction, &c., 13, 14, 15.  
 Penalty for violating ordinance as to rails, &c., 10.  
 Repeal, 4, 17.  
 Solid grooved rail to be used, 7, 8.  
 Snow, dirt, &c., on streets, 1.  
 Snow to be removed, 5.  
 Supervisors to enforce ordinance, 8.

**Railway companies forbidden to place piles of snow, &c., on streets.**

1. That from and after the passage of this ordinance it shall be unlawful for any passenger or other railway company to place, or cause to be placed, any heap or heaps, or piles of ice, snow or dirt or other rubbish, upon any street or avenue in the City of Harrisburg traversed by said railways. 5 Feb., 1887. 4, 133, §1.

**Penalty.**

2. Any officer or employe of any of said railway companies, whose duty it shall be to superintend the tracks of said companies, who, on notice from either of the supervisors, shall refuse or

neglect to remove any of the obstructions mentioned in the foregoing section, for the space of twenty-four (24) hours after receiving said notice, shall be liable to a penalty of not less than ten dollars or more than fifty dollars, to be recovered before the mayor or any alderman of said city by penal action. Id., §2.

**Supervisors to enforce ordinance.**

3. It shall be the duty of either the supervisors to attend to the enforcing of this ordinance whenever a violation thereof is brought to their knowledge, and if either of the said supervisors shall neglect to attend thereto, shall be liable to a penalty of not less than five dollars or more than ten dollars, to be recovered before the mayor or any alderman, upon complaint made by any party aggrieved. Id., §3.

**Repeal.**

4. All ordinances or parts of ordinances inconsistent with the above ordinance, be and the same are hereby repealed. Id., §4.

**Railway companies to remove snow and dirt from tracks.**

5. That all street railway companies, for the convenience of the public, shall, at the discretion of the highway commissioner, remove all snow and sweep between their tracks all dirt and dust, and remove the same at their expense. 14 March, 1890. 4, 399, §1.

**Penalty.**

6. Any neglect or refusal on the part of any street railway company shall be punishable by a fine of twenty dollars before the mayor or any alderman of the city, said fine to revert to the highway department. Id., §2.

**Solid grooved rail.**

7. That all street railway companies which now have, or may hereafter acquire the right to occupy, or which do occupy or may hereafter occupy, any of the streets or avenues of the City of Harrisburg, shall use in the construction of their track or tracks, turnouts or sidings on any street or avenue which is paved or in process of being paved the solid grooved rail, of sufficient weight and strength to support the cars to be run thereon. 27 Dec., 1892. A, 183, §1.

**Solid groove rail.**

8. All street railway companies which now occupy any of the paved streets or avenues of the city shall whenever their existing tracks, turnouts and sidings are relaid or rebuilt, or an additional track is to be constructed on any of the paved streets or avenues, use only the solid groove rail of sufficient weight and strength to support cars to be run thereon. Id., §2.

**Highways to be put in good condition without delay.**

9. All street railway companies which shall build or construct their track or tracks on any of the paved streets or avenues of the city shall, without delay, restore the paving and place the street or avenues so far as the same has been disturbed by the

building or construction of said track or tracks in as good condition as the street or avenue was before being occupied by said track or tracks. Id., §3.

**Penalty.**

10. Any violation of any of the terms of this ordinance shall be punished by a fine of not less than ten dollars per day or more than fifty dollars per day for each and every day the violation shall continue, said fine to be imposed and collected only after : hearing and conviction before the mayor or any alderman of the city. Id., §5.

**Consent of city to be obtained to construct; Certificate to be filed.**

11. That any company which shall be authorized by its charter to construct and maintain, or to operate, and which shall desire to construct and maintain or to operate a street passenger railway or branch or extension thereof, within the limits of the city, shall obtain the consent of the city thereto in the following manner, viz: The said company shall file with the city clerk a certificate setting forth:

1. The name of the company, the location of its place of business within the city and the name of its president, secretary and treasurer.

2. The streets, roads and highways within and without the city, comprising its circuit, as authorized by its charter, or, in case of an extension or branch, the streets, roads or highways within and without the city upon which the said extension or branch is desired to be constructed.

3. The streets, alleys and any bridges within the city, desired to be occupied by the said passenger railway, or extension or branch thereof.

4. That the said company has, by resolution of its board of directors, under the seal of the corporation, filed in the office of the city clerk, agreed, if the consent of the city be obtained to the construction of its proposed railway, or branch, or extension thereof within the city, to abide and to be bound by all the terms, provisions, conditions and regulations of this ordinance.

5. That it has paid into the office of the city treasurer fifty dollars to cover the expense of printing the ordinance expressing the city's consent to the construction of its proposed passenger railway, or branch, or extension thereof. 4 March, 1897. B, 182, §1.

**Consent to be given by ordinance.**

12. The consent of councils to the construction of any street passenger railway, or branch, or extension thereof, if granted shall be expressed by ordinance, duly approved by the mayor, and if granted, the said company shall be allowed to construct and operate its said railway, or branch, or extension thereof, upon the streets named in said ordinance, and to erect all necessary wires, poles and equipments upon the conditions hereby imposed, and in accordance with and subject to the regulations herein established. Id., §2.

**Construction regulated; Highway commissioner and city engineer to approve.**

13. Clause 1. The construction of any railway, or branch, or extension thereof, shall be under the approval of the highway commissioner and city engineer of the city.

**Notice to be given before digging up street.**

Clause 2. Before any street shall be dug up or opened for the construction or repair of any railway track, or for the paving, or repair of paving, between the same, notice in writing shall be given to the highway commissioner of the time when, and the point or points where it is desired to commence work thereon, who shall, if not otherwise directed by councils, issue his permit therefor, not more than ten days after the receipt of said notice, whereupon the said work of construction, paving or repair, shall be commenced, and shall be continued to completion with no unnecessary or unreasonable delay; *Provided, however,* That the notice shall not be required in the case of repairs needed to be immediately made for the safe use of the street or operation of the railway. The deciding of what is immediate necessary repairs shall be determined by the mayor, city engineer or highway commissioner, either of whom can grant a permit for the same.

**Not more than two squares to be torn up.**

Clause 3. Not more than two squares of any street shall be occupied and torn up at any one time for the purpose of laying or repairing tracks therein, except with the written consent of the highway commissioner and city engineer.

**Grade to be furnished by city engineer.**

Clause 4. It shall be the duty of the city engineer to furnish the grade at which all track shall be laid, and they shall be so laid and so kept as to conform thereto, and so that driving or along or across the same shall be easy and safe; *Provided,* That this clause shall not be construed to mean that where the grade furnished by the city engineer shall be other than the actual existing grade of the street, the company constructing said railway shall make the whole street conform to the grade so furnished. In case of a change in the grade of any street occupied by any railway, the grade of its tracks shall be changed to conform thereto at the expense of said company.

**Duty of company to pave.**

Clause 5. On all streets occupied by the tracks of any company, it shall be the duty of said company to pave and to keep paved and in good repair, the space within their tracks, and nine inches on the outside of each rail thereof with the same material with which the rest of the street may at that time be paved and in the same manner; *Provided,* That on all streets paved with sheet asphalt the space between the rails of the tracks and nine inches on the outside of each rail on said streets may be paved with asphalt blocks or vitrified bricks, properly laid on a concrete base.

**Duty of company to sweep.**

Clause 6. On all paved streets occupied by the tracks of any company, it shall be the duty of such company to keep swept and clean, under the direction of the highway commissioner, the space between the tracks and nine inches on the outside of each rail thereof.

**Snow to be removed.**

Clause 7. Any company occupying the streets or highways of the city shall keep that portion of the streets so occupied by its tracks and nine inches on the outside of each rail thereof, clear of snow, and shall remove the same within twenty-four hours, under the direction of the highway commissioner.

**Location of switches.**

Clause 8. The location of all switches, turnouts and sidings shall be first submitted to and approved by the highway commissioner and city engineer.

**Rails.**

Clause 9. All tracks shall be laid with side-bearing girder rails, except such streets where grooved rails have heretofore been laid; *Provided*, That any company accepting the provisions of this ordinance as hereinafter provided, shall not be required to change such rails as they may at present have in use until the said tracks shall be relaid; *And provided, further*, That the highway commissioner may, at any time, allow any company to use at such point on its line, not exceeding two blocks in length, as he may designate for the space of one year, a different kind of rail than that herein required, for experimental purposes; *And provided, further*, That should any company procure and submit to the commissioner of highways a pattern of rail more suitable than those above required, and the same be approved by the commissioner, subject to the approval of councils, the said company shall have the right to use such rail in the construction of its tracks.

**Bridges to be maintained and painted.**

Clause 10. It shall be the duty of any company occupying with its tracks a bridge or bridges of the city to maintain and keep the structure of the same in good repair and painted so long as it may occupy the same with its tracks, and to maintain and keep in good repair the flooring thereof.

**Iron poles to have caps.**

Clause 11. It shall be the duty of all companies to place caps of wood or some other non-conducting substance on the top of all iron poles to which wires are attached.

**Highway commissioner to enforce provisions; Penalty.**

Clause 12. It shall be the duty of the commissioner of highways to enforce the provisions of this section of this ordinance. Any company violating the provisions of Clauses 2 and 3 hereof shall be liable, upon conviction thereof, before the mayor or any alderman of the city, to pay a fine of not less than fifty or more

than one hundred dollars, recoverable as debts of like amount at law. The duties imposed by the other clauses hereof shall be enforced by such legal remedies as may be appropriate. Id., §3.

**Construction must be completed within limit of law; Penalty.**

14. Whenever consent is hereafter granted, as hereby provided for the construction of any street passenger railway, or branch, or extension thereof it shall be upon condition that the construction of the whole circuit of the said company's line, or extension or branch thereof, both within and without the city, as set forth in the certificate required by section 2 hereof, shall be commenced and completed within the time limited by law, and its charter, unless the same be extended, as provided by law. Upon the failure of any company so to construct or to complete the whole of its circuit, or branch, or extension thereof as aforesaid, the city may (at its option) declare all the rights of the said company on streets within the city named in the ordinance granting consent thereto, forfeited, and enforce the same and compel the removal of such tracks as may have been already laid under the said consent within the city by appropriate legal remedies. Id., §4.

**Operation regulated.**

15. In the operation of their lines any street passenger railway within the city, owning or operating the same, shall be subject to the following regulations:

**Equipment.**

Clause 1. All cars shall be equipped with modern and improved fenders, brakes, lights, gongs and other appliances for the safety of life and property in operation thereof; said appliances to be approved by the mayor and highway commissioner.

**Speed.**

Clause 2. No cars shall be run at a greater speed within the built up portion of the city than at the rate of eight miles per hour.

**Bell to be rung at crossing.**

Clause 3. Before coming to any cross streets a bell or gong shall be rung or struck a sufficient length of time to warn pedestrians or vehicles about to cross the street of the approach of the car.

**Full stop at every grade crossing of steam railroad track.**

Clause 4. Before crossing at grade any steam railroad track all cars shall be brought to a full stop, and shall not proceed until and unless the railroad track be clear.

**Cars to be run with reasonable frequency.**

Clause 5. Cars shall be run on all streets occupied by the tracks of any street passenger railway company with such reasonable frequency as the public necessities require.

**Penalty.**

Clause 6. Should any company fail or refuse to operate any portion of its line within the city and continue in such refusal, or failure, for six months after notice from the mayor or coun-



cils to operate the same, it shall be deemed to have abandoned such portion of its line, and shall forthwith remove its tracks from the same and restore the street or streets from which they have been removed to good condition, within thirty days thereafter.

**Mayor and police to enforce ordinance; Penalty.**

Clause 7. The mayor and police force of the city shall be charged with the enforcement of the provisions of this section. Any violation of clauses 1 and 2 shall, upon conviction thereof before any magistrate, render the company violating the same liable to a penalty of not less than fifty and not more than one hundred dollars, to be recovered as fines of like amount are recovered at law. For every violation of clauses 3 or 4 the motorman or conductor violating the same shall be punishable upon conviction before any magistrate by a fine of not less than five or more than ten dollars, and the company shall be liable to same amount to be recovered as fines of like amount are now recovered. The duties imposed by the other clauses of this section may be enforced by the city authorities by appropriate legal remedies. Id., §5.

**Acceptance of ordinance to be filed.**

16. Any company owning or operating any line or lines of street passenger railway within the city which shall within sixty days after the passage and approval of this ordinance, accept the provisions of this ordinance in writing, under the seal of the corporation, filed in the office of the city clerk, together with a map or plan, showing the streets, highways and bridges within the city, then occupied by the line or lines of track owned or operated by such company, shall be entitled to occupy the said streets, highways and bridges with said tracks, poles, etc., and to maintain and operate cars thereon, and the right thereto is hereby ratified, approved, confirmed and assured to such company, with like effect and to all intents and purposes, as if the right to lay the said tracks, and to operate the same had originally been acquired by and under the authority of this ordinance consenting thereto, passed in the same manner herein provided, and shall be governed by and subject to the provisions hereof and the regulations herein established. Id., §6.

**Repeal.**

17. All ordinances and parts of ordinances in conflict herewith are hereby repealed. Id., §7.

## Passenger Railway Companies.

[See PASSENGER RAILWAYS—POLES AND WIRES—STREETS—SUBWAYS.]

Central Pennsylvania Traction Company, 10, 18.  
Citizens' Passenger Railway Company, 1-6.  
East Harrisburg Passenger Railway Company, 7-14.

Harrisburg City Passenger Railway Company, 7, 15-18.  
Harrisburg and Mechanicsburg Electric Railway Company, 20.  
Harrisburg Traction Company, 14, 19.

**Citizens' Passenger Railway Co.**

1. Granting the consent of the City of Harrisburg to the Citizens' Passenger Railway Company to occupy certain highways of the city. 30 March, 1892. A, 65.

2. Granting the consent of the City of Harrisburg to the Citizens' Passenger Railway Company to occupy certain highways of the city. 6 June, 1892. A, 79.

3. Granting the consent of the City of Harrisburg to the Citizens' Passenger Railway Company to occupy certain highways of the city. 27 Oct., 1892. A, 146.

4. Granting the consent of the City of Harrisburg to the Citizens' Passenger Railway Company to occupy certain highways of the city. 2 March, 1893. A, 243.

5. Granting the consent of the City of Harrisburg to the Citizens' Passenger Railway Company to occupy certain highways of the city and the Mulberry street overhead bridge. 1 June, 1894. A, 511.

6. A supplement to an ordinance, entitled "An ordinance granting the consent of the City of Harrisburg to the Citizens' Passenger Railway Company to occupy certain highways of the city and the Mulberry street overhead bridge," passed May 18th, A. D. 1894, granting to the said Citizens' Passenger Railway Company the right to occupy certain highways of the city and the Mulberry street overhead bridge. 2 June, 1894. A, 518.

**Harrisburg City Passenger Railway Co.**

7. Granting the consent of the City of Harrisburg to "The Harrisburg City Passenger Railway Company" to occupy portions of Fourth and Chestnut streets, and to use the tracks of the "East Harrisburg Passenger Railway Company" on Chestnut street, between Third and Fourth streets. 16 Feb., 1887. 4, 135.

**East Harrisburg Street Passenger Railway Co.**

8. Granting the consent of the City of Harrisburg to the East Harrisburg Street Passenger Railway Company to occupy certain streets. 12 Aug., 1886. 2, 131.

9. Granting to the East Harrisburg Passenger Railway Company the consent of the City of Harrisburg to occupy certain streets with poles and wires for the purpose of enabling it to run its cars by electricity. Res., 30 Nov., 1887. 2, 252.

10. Authorizing certain additions, within the city, of the lines of the East Harrisburg Passenger Railway Company, operated by the Central Pennsylvania Traction Company. 30 Nov., 1904. D, 191.

11. Granting the consent of the City of Harrisburg to the East Harrisburg Passenger Railway Company to extend and operate its lines of street railway upon certain highways of the city. 7 July, 1900. B, 680.

12. Granting the consent of the City of Harrisburg to the East Harrisburg Passenger Railway Company to occupy certain highways of the city, under certain conditions and provisions. 5 Nov., 1892. A, 167.

13. Granting consent of the City of Harrisburg to the East Harrisburg Passenger Railway Company to extend its railroad on Derry street, from the present terminus to the eastern limits of the City of Harrisburg, and approving its plans. 23 Jan., 1890. 4, 376.

14. Authorizing certain extensions and additional tracks, within the city, of the lines of railway of the East Harrisburg Passenger Railway Company and the Harrisburg City Passenger Railway Company, operated by the Harrisburg Traction Company. 14 Sept., 1903. C, 660.

**Harrisburg City Passenger Railway Co.**

15. Relating to certain proposed extensions of the tracks of "The Harrisburg City Passenger Railway Company." 2 Sept., 1885. 2, 125.

16. Regulating the use of electricity as a motive power by the Harrisburg City Passenger Railway Company. 26 Nov., 1890. 2, 402.

17. Ratifying, confirming and approving the occupation of certain streets of the city by the Harrisburg City Passenger Railway Company and consenting to the use and operation and equipment of the lines and extensions of said company by the East Harrisburg Passenger Railway Company, its lessee, as an electric railway with the necessary poles, wires and other equipments. 29 Dec., 1902. A, 186.

18. Authorizing the Harrisburg City Passenger Railway Company, leased and operated by the Central Pennsylvania Traction Company, to construct and operate an additional track on Reily street, from Second street to Sixth street. 15 Feb., 1904. C, 735.

**Harrisburg Traction Co.**

19. Authorizing certain changes and extensions in the lines of railway operated by the Harrisburg Traction Company, and permitting an abandonment of a portion thereof, within the city, and requiring said company to pay five thousand dollars into the city treasury for the privileges granted. 18 Sept., 1901. C, 91.

**Harrisburg and Mechanicsburg Electric Railway Co.**

20. Granting the consent of the City of Harrisburg to the Harrisburg and Mechanicsburg Electric Railway Company, its successors or assigns, to occupy certain highways of the city. 4 Oct., 1893. A, 228.

## Pavements and Curbs.

[See BICYCLES—BUILDINGS—NUISANCES.]

Boll Brothers Manufacturing Company, certain rights granted to, 21.  
Brick curb, 5.  
Cellar doors, porches and steps, 6, 6a.  
Curbing and paving required, 12.  
Curbstones, according to regulations, 6.  
Curbstones, size and how set, 4.  
Dill, I. W., certain rights granted to, 20.

Duty of property owners to pave and curb, 18.  
Grades and levels, 14.  
Highway commissioner, powers of, 18.  
Highway commissioner to require sidewalks to be laid, 14.  
Llens, &c., proceeds to be returned to commissioner, 17.  
Pavements, how laid, 3.

Pavements not to be torn up without permission, 8.  
 Penalty for violating ordinances, 7, 11, 15.  
 Penalty, how recoverable, 11.

Protection of openings for sewers, &c., 9.  
 Protection over, during building, 1.  
 Repeal, 16, 19.  
 Sand, sod, &c., not to be taken, 10.  
 Width of pavements regulated, 2, 13.

#### Protection over pavements during building.

1. That any person or persons who may contemplate the erection of a building or buildings on any of the streets, lanes or alleys of the city, to be constructed of brick or stone, shall, after the said buildings are raised to the height of one story, fence off the front of said buildings the width of the pavement, or cover the said pavement with a good and substantial roof the whole length of the buildings which are in progress of erection, of sufficient height to allow pedestrians to pass under the same. 10 Dec., 1862. 1, 95, §12.

#### Width of pavements.

2. That the width of pavements or foot-walks along said streets shall be one-fifth of the width of the street on each side in which said pavements are constructed, except in State street, where they shall be twenty feet wide, and along both sides of Market square, where they shall be eighteen feet wide; and for the purpose of estimating the width of pavement, Front street shall be considered as eighty feet from Paxton street to State street, and from State street to North street as sixty feet wide, and except also in such streets where the pavements have been widened by special permission of council, where they shall remain as established by said permission; along Strawberry and Blackberry alleys, at the ends of the Market square, the pavements shall be six feet wide; in all other cases the pavements in any of the alleys of the width of twenty feet and under, shall be the one-sixth the width of the alley, and in all cases where pavements have been put down under regulations not in accordance with the above, they may remain until the majority, in feet, of the owners of the property in front of which they are laid, shall make application to and obtain the consent of council to have them altered to the above regulations. 15 July, 1862. 1, 57, §2.

#### Pavements, how to be laid.

3. In laying said pavements, the earth underneath shall be removed to the depth of one foot, and the space filled up with gravel, cinder or sharp sand, on which the pavements shall be laid, with a descent from the line of the buildings to the curbstones of half an inch to each foot. The said pavements shall be of brick, and laid to the full width above specified, except in front of vacant or unimproved lots along the streets, where they may be laid half the width above specified, which half shall be next the curbstones; the other half to be graded with the pavement, and gravelled to the depth of six inches. In front of stables, also, the pavements may be of brick, to be set on edge. Id., §3.

#### Size of curbstones and how to be set.

4. All curbstone to be set hereafter along any of the streets, lanes, or alleys of the city, shall be six inches thick at the top

where the pavements shall have to be ten or more than ten feet wide, and of the thickness of four inches in all other cases; and shall be of the depth of eighteen inches from the top, dressed and fitted so as to be uniform in appearance, with as smooth a surface on the gutter side as practicable. Id., §4.

**Brick curb.**

5. It shall be lawful to make a brick curb, by laying two courses of brick on edge along the outside of the pavement, wherever the same may be desired by the owners of property who may be laying, relaying or widening their pavements, and also in cases where pavements are laid by the city authorities, under the provisions of section eleven of the city charter and the ordinances on that subject; *Provided*, That all persons laying brick curb, as above authorized, shall lay the gutter along the same with brick. Id., §5; amended 4 Feb., 1871. 1, 443, §1.

**Owners of lots to set curbstones according to regulation.**

6. It shall be the duty of owners of lots within the city, by the direction of the common council, as provided by the eleventh section of the city charter, where curbstones have not been heretofore set, to procure and set curb-stones in front of their said lots along the several streets, lanes and alleys within the limits of the city, under the directions of the regulators, of the dimensions hereinbefore set forth, and to lay pavements in the manner hereinbefore directed; and in all cases where lot owners shall have set curb-stones or laid pavements, and the same shall not be according to the regulations of the regulators, or shall in the opinion of the regulators require re-setting, or where from any cause except an alteration of the grade by the city authorities, any of said pavements shall require to be repaired, the owners of such lots shall, on five days' notice from the supervisor or street commissioner, take up such curbstones or pavements and reset and relay or repair them under the direction of the said regulators; and if any lot owner shall neglect or refuse, after notice as aforesaid, to set or reset their curb-stones or pave or repave or repair their footway in front of their lot or lots in accordance with the requisitions of this ordinance, it shall be the duty of the supervisor or street commissioner to cause the same to be done at the expense of the said lot owner or owners, and the amount of the expense shall be recovered in the manner provided in said eleventh section of the charter, and said lot owners shall moreover be liable to suffer the penalties inflicted under the eleventh section of this ordinance. 15 July, 1862. 1, 57, §6.

**Regulation of cellar doors, porches and steps.**

6a. No cellar door,<sup>1</sup> porch or step shall project or be extended more than six feet from the line of the buildings into or over the pavement in Front, Market, Second and State streets, and along each side of Market square; nor more than four feet and three inches in any of the other streets; nor more than three feet in

<sup>1</sup> See Buildings, 12, 65; Clause 10.

Liberty alley and Meadow lane. No porch shall be constructed, post set up or tree planted along any of the alleys beyond the line of the lots; and no cellar door shall be constructed in any of the alleys which shall extend further into the alley than two feet eight inches from the line of the lot; and no step shall extend more than fifteen inches from the line of the lot; and cellar doors erected or constructed in any of said alleys shall be on a grade with the pavement thereof, so as to occasion no obstruction to persons passing along said pavements. Id., §8.

**Penalty.**

7. If any person shall set up curbstone, lay pavement or make a foot-way, or shall set up or plant a post or tree, or construct a cellar door, porch or door step in any of the streets, lanes or alleys of the city, in any other manner than is directed in this ordinance, or shall refuse to take up his, her or their curbstones or pavements, and reset or relay or repair them in the manner hereinbefore prescribed; every person so offending and being thereof legally convicted before the mayor or one of the aldermen, shall forfeit and pay for the use of the city ten dollars for each offense, to be levied and collected as provided for the recovery of other penalties by the provisions of the city charter. Id., §11.

**Pavements, &c., not to be torn up without permission from council.**

8. Any person who shall injure or tear up any pavement, side or crosswalk, drain or sewer, or any part thereof, or who shall dig any hole, ditch or drain in any street, pavement or sidewalk for any purpose whatever, without a permit from the common council, to be obtained from the clerk; and shall neglect or refuse to fill up, puddle and place the same in as good condition as before breaking ground, upon being required so to do by competent authority; or who shall hinder or obstruct the making or repairing of any pavement, side or crosswalk, which is or may be making under any law or resolution of the common council; or who shall hinder or obstruct any person employed by the common council in making or repairing any public improvement, or work ordered by the council, shall, for each and every offense, forfeit and pay the sum of ten dollars. Id., §12.

**Persons making sewer, vault or cistern to protect the same.**

9. The person making or having charge of such sewer, vault or cistern shall, during the whole of every night while such ditch for the sewer, vault or cistern shall be opened or uncovered, fence or board in the same or otherwise protect it, and cause a lighted lamp or lantern to be placed and kept so as to cast its light upon such vault, opening for sewer or cistern; and every such owner, occupant or person making or having in charge such work, who shall neglect or refuse to comply with the provisions of this section, shall forfeit and pay a fine of not less than ten or more than twenty dollars for each and every offense. Id., §14.

**Not to carry sand, gravel or sod from beach, or streets.**

10. That any person or persons who shall take or carry away sand, gravel or sod from the beach, shore or bank of the river Sus-

quehanna, or from the streets, lanes or alleys within the said city, without lawful authority to do so, he, she or they shall, on conviction thereof before the mayor or any alderman of said city, forfeit and pay the sum of five dollars for every such offense, for the use of the city. Id., §15.

**Penalty, how recoverable.**

11. That all penalties imposed by this ordinance, shall be recovered as other penalties are now by law recoverable. Id., §16.

**Curbing and paving required.**

12. It shall be the duty of all owners of property along any public street or other highway, that is legally opened and properly graded of this city, and they are hereby required, upon thirty days' notice from the mayor or highway commissioner, to set proper curbstones, and where curbstones have been set and have become so worn or displaced, or are unfit from any cause to remain, to reset the same, and lay pavement in front of their properties respectively. 24 July, 1889. 2, 281, §1.

**Notice to pave; Width regulated.**

13. It shall be the duty of owners of property fronting on any public street or other highway, opened and used for public travel, and they are hereby required, upon thirty days' notice from the mayor or the highway commissioner, to lay brick or stone pavements from the house line to the curb, except in vacant or unimproved lots, where one-half the established width of said pavement shall be laid, which half shall be next the curb line; the remaining half shall be put at the grade established for the sidewalk. Id., §2.

**Highway commissioner to act; Grades and levels.**

14. It shall be the duty of the highway commissioner to require sidewalks to be laid along any public highway, street, avenue, lane or alley, whenever authorized so to do by the committee of councils on highways. Grade lines and levels shall be given by the city engineer for all curbs, pavements and sidewalks, for all persons required to lay pavement under this ordinance, as soon as practicable, upon application at his office. Id., §3.

**Penalty.**

15. In case of failure, neglect or refusal of any person to lay a sidewalk or set or reset curbstones, upon notice from the mayor or highway commissioner, as provided in this ordinance, it shall be the duty of the highway commissioner, at the expiration of the notice herein provided for, to procure all the necessary material and labor and lay such pavements, and set or reset such curbs, and to state an account under oath of the actual cost thereof in duplicate, one copy of which shall be filed with the city controller and one with the city solicitor, and it shall be the duty of the city solicitor to cause the same to be duly entered in the proper dockets as liens upon the property in front of which curbing is set or reset or the pavement laid, and proceed to enforce the same against said property according to law. Id., §4.

**Repeal.**

16. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed. Id., §5.

**Proceeds of penalties enforced to be returned to commissioner.**

17. That when any lien, entered in accordance with the provisions of the ordinance, to which this is a supplement, or of any other ordinance or ordinances, law or laws, regulating the laying of sidewalks, shall be collected, the proceeds thereof shall be returned to the proper fund under the control of the commissioner of highways. 19 Aug., 1891. 4, 521, §1.

**Power of commissioner of highways.**

18. That all the provisions contained in the ordinance to which this is a supplement, relating to the laying of sidewalks, shall apply to the relaying and repairing of sidewalks, and the commissioner of highways shall have the same power to relay and repair sidewalks as under the provisions of said ordinance he has to lay new sidewalks, the cost which relaying and repairing shall likewise be liens against the property of delinquents, and the proceeds from the collection of such liens shall be returned to the proper fund under the control of the commissioner of highways. Id., §2.

**Repeal.**

19. That all ordinances or parts of ordinances inconsistent herewith, be and the same are hereby repealed. Id., §3.

**Certain rights granted to I. W. Dill.**

20. That I. W. Dill be authorized to construct, at his own expense, for the use of himself and tenants, an elevated sidewalk or platform and remove the iron railing on the south side of the Mulberry street overhead bridge along the Mulberry street front of his property, situate on Mulberry street. Said sidewalk or platform to be firmly and substantially built, and shall begin at the eastern line of said I. W. Dill's property, and may extend along the Mulberry street front thereof for a distance of not more than one hundred and ten (110) feet. In the construction of the above work the same shall be done under the direction of the city engineer; *Provided*, That the City of Harrisburg shall not be liable for any injury or damage done or occasioned by the erection, maintenance or use of the said elevated sidewalk or platform. 1 Sept., 1892. A, 111, §1.

**Certain rights granted Boll Brothers Manufacturing Company.**

21. That the Boll Brothers Manufacturing Company, their successors or assigns, be authorized to construct, at their own expense, for the use of themselves and tenants, an elevated sidewalk or platform and remove the iron railing on the north side of the Mulberry street overhead bridge along the Mulberry street front of their property, situate on Mulberry street, and replace the same with a folding iron gate or an iron gate swinging inwardly. Said sidewalk or platform to be firmly and substantially built, and properly protected by an iron fence at least four feet high on



both sides of said platform, and may extend along the Mulberry street front thereof for a distance of not more than ten (10) feet. In the construction of the above work the same shall be done under the direction of the city engineer; *Provided*, That the City of Harrisburg shall not be liable for any injury or damage done or occasioned by the erection, maintenance or use of the said elevated sidewalk, platform or gate. 7 July, 1894. A, 528, §1.

## Pawnbrokers.

[See JUNK SHOPS—LICENSE AND LICENSE TAXES.]

Penalty, 2.  
Repeal, 8.

Reports to chief of police, regulated, 1.

Report to be made before 10 A. M. of preceding day's business.

1. That all pawnbrokers and dealers in second-hand goods shall make out and deliver to the chief of police, at the mayor's office, every day before the hour of 10 o'clock A. M., a legible and accurate report of all articles taken in pawn or purchased during the preceding business day, said report to contain an accurate description of all articles taken in pawn or purchased, together with the amount loaned on or paid for said articles. 23 Nov., 1905. D, 445, §1.

Penalty.

2. That any one violating this ordinance, and being convicted thereof before the mayor or any alderman of the city, shall be sentenced to pay a fine of one hundred dollars (\$100), and in default of the payment thereof, shall be imprisoned in the jail of Dauphin county for a period not exceeding thirty (30) days; and shall, furthermore, forfeit his, her or their license to conduct said business for the remainder of the fiscal year. Id., §2.

Repeal.

3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed. Id., §3.

## Paxton Creek.<sup>1</sup>

[See BRIDGES—PLOT OR PLAN OF CITY.]

Appeal, 2.  
City authorized to straighten, 1.  
Deleterious matter prohibited, 4.  
Obstruction in, to be removed, 5.  
Penalty, 6.

Potts, W. & A., certain permission given, 8, 9, 10.  
Repeal, 7.  
Rights of city not surrendered, 10.  
Sewage matter in, prohibited, 8.

City granted authority to straighten.

1. The corporation of the City of Harrisburg are hereby au-

<sup>1</sup> Appropriation for iron bridge over Pennsylvania Canal at Paxton Furnace; 8 May, 1869. 1, 394. Bridge over railroad and canal at State street by P. R. R. Co. authorized; 4 March, 1871. 1, 452. Bridge

across Pennsylvania Canal at Herr street authorized; 2 Dec., 1871. 1, 515. Application to county commissioners for bridge at Reilly street; 13 Aug., 1886. 2, 135. Appropriation for bridge over Paxton creek at Hem-

thorized to straighten Paxton Creek<sup>1</sup> whenever the same may be necessary within the boundary lines of the said city and Swatara township, and also to change the bed of the said stream whenever it may become necessary to accomplish the desired object of removing all obstructions in said creek, so that no stagnant water will remain in the said creek or its immediate vicinity. 19 March, 1860. P. L., 197, §42.

**Appeal allowed.**

2. All persons who may feel themselves aggrieved or in any way damaged by the straightening or changing of the bed of Paxton Creek, shall or may apply to the court of quarter session of the county of Dauphin and have their damages valued and assessed, as is provided for in the preceding section of this act, relating to the opening, grading and curbing of streets, lanes and alleys within the said city, and the damages, if any, to be paid by the county of Dauphin. Id., §43.

**Draining of sewage matter into creek forbidden.**

3. That all property owners, having premises on either side of Paxton Creek which are now being drained of sewage matter into said creek, shall discontinue draining such sewage into said creek, except in cases where their property is situated at a distance of more than fifty (50) feet from any public sewer leading into the intercepting sewer, and that all properties situated within a distance of fifty (50) feet from any public sewer connected with the intercepting sewer, shall not be permitted to be drained of sewage into Paxton Creek, but they shall be connected with and drained into such public sewer. 6 July, 1905. D, 356, §1.

**No deleterious matter to be placed in, on or along.**

4. Except as provided in section 1, no person shall place in, on or along the bed of Paxton Creek any solid or liquid matter

lock street; 13 Nov., 1879. 3, 234. Appropriation for bridge over Pennsylvania Canal at Paxton street; 5 April, 1881. 3, 341; repealed 10 Dec., 1881. 3, 394. Appropriation for grading approaches to Sycamore street bridge; 8 June, 1895. A, 696. Appropriation for repair of Mulberry street bridge; 31 March, 1897. B, 214. Reconstruction of eastern approach to Maclay street bridge authorized; 29 March, 1900. B, 650. Repairing of Mulberry street overhead bridge authorized; 2 April, 1900. B, 668. Seven thousand dollars for repair of bridges; 1 Nov., 1900. B, 714. Application to commissioners of Dauphin county for a bridge over Paxton creek at the crossing of Hemlock street; 1 Sept., 1893. A, 423. Application to commissioners of Dauphin county for a bridge over Paxton creek at the crossing at Maclay street; 11 Oct., 1894. A, 563. Requesting commissioners of Dauphin county to rebuild bridge over Paxton creek at Hemlock street; 10 July, 1901. C, 62. Paxton creek to be straightened, and bed changed between Shanois

street and outlet at Susquehanna river, so that no stagnant water may remain; 18 July, 1905. D, 372.

1 A special local Act of 1860, incorporating the City of Harrisburg, authorized said city to straighten Paxton creek within the limits of said city, and of Swatara township; it also provided for proceedings in the Quarter Sessions to assess damages therefor, which damages were to be paid by the county of Dauphin. Subsequently, in 1874, the General Municipal Corporation Act was passed, which the City of Harrisburg accepted, authorizing cities to alter the channels of watercourses, &c., and providing for proceedings in the Common Pleas to assess damages therefor, such damages to be paid by the city.

*Held*, that the latter Act did not repeal the former, as to work done in the straightening of said Paxton creek, and as to proceedings and liability for damages caused thereby.

*City of Harrisburg vs. Sheek*, 104 Pa. St. 53.

that may be deleterious to the health of the public, or that may tend to obstruct the free flow of the water of said creek. Id., §2.

**Obstructions to be removed.**

5. That all persons now maintaining obstructions of any kind within the bed of Paxton Creek, wherever the same has been straightened or changed by the action of councils, shall remove such obstructions upon thirty (30) days' notice from the highway commissioner; and upon failure to remove the same within the time of said notice, the person so offending shall suffer the penalty hereinafter provided for the violation of this ordinance, and the highway commissioner shall remove the said obstruction or obstructions forthwith. Id., §3.

**Penalty.**

6. Every person who shall violate any of the provisions of this ordinance, shall, upon conviction thereof before the mayor or any alderman of the city, be sentenced to pay a fine of not more than one hundred (\$100) dollars, and in default of the payment of said fine, shall be committed to the jail of Dauphin county for a period not exceeding thirty (30) days. Id., §4.

**Repeal.**

7. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed. Id., §5.

**Certain permission granted to W. & A. Potts.**

8. That permission is hereby given the said W. & A. Potts to erect across the channel of Paxton Creek, on the northern side of the bridge crossing said creek at Market street, in said city, a block of brick or frame dwelling houses, and for that purpose, privilege is hereby granted to said W. & A. Potts to construct foundations and walls of brick and stone at the place above designated in conformity to a plan and profile furnished by the city engineer, and approved by the proper committee; *Provided*, That in the construction of said walls and foundation the channel of said creek shall not be narrowed or diminished, either at the bridge or at any point upon the grounds on which said walls and foundations are to be erected, except as allowed and contained on the profile of said work as furnished by the city engineer, but the present width of said channel shall be strictly preserved, undiminished, and the said walls and foundations so erected as to permit the free passage of the usual or any unusual flow of water through the said channel; *And provided, further*, That the said W. & A. Potts do for themselves, their heirs, assigns, grantees and alienees, forever, hold the said City of Harrisburg free and harmless from any damage or damages that may be caused to the property of adjacent owners by reason of the license herein granted, and they shall keep and maintain the said channel so far as the same is under their control, by virtue of the license herein granted, clean and free from all obstructions and preserve a free passageway for the water of said creek to and under the houses to be erected as desired. Res., 13 Sept., 1877. 2, 64, §1.

486 PEDDLING, ETC.—PLOT OR PLAN OF CITY.

**City engineer to supervise.**

9. All of said work to be done under the supervision of the city engineer, at the expense of said W. & A. Potts. Id., §2.

**Rights of city not surrendered.**

10. This joint resolution shall not be construed in any manner as a surrender of any rights the said city may hold in the said channel of Paxton Creek. Id., §3.

**Peddling, Hawking, Etc.**

[See NUISANCES.]

**Plot or Plan of City.**

[See PAXTON CREEK.]

**Paxton creek straightened, 8.  
Plot attested, 4.**

**Plot established, 1.  
Streets, certain, vacated, 2.**

**Certain plot or plan established.**

1. That the plot or plan of the City of Harrisburg now on file in the office of the recorder of deeds in and for the county of Dauphin, in the office of the prothonotary of said county, and also in the office of the clerk of the common council of this city, be and the same is hereby established and adopted as the plot or plan of said city, and the streets, lanes and alleys drawn thereon, together with the names thereof, are hereby ratified and confirmed, and all regulations hereafter made by the city surveyors shall conform to the said plan, and all streets or alleys hereafter to be opened, shall be in accordance therewith. 15 Oct., 1874. 2, 5, §1.

**Certain streets, &c., vacated.**

2. That all roads, streets, lanes, alleys, turnpikes or ways over which a red line is drawn on the said plan, are hereby declared to be vacated. Id., §2.

**Paxton creek straightened.**

3. That the lines drawn on the said plot, showing the new channel for the straightening of Paxton Creek, be and the same are hereby established as the new channel for said creek, and the same shall be straightened from time to time, as the city councils may direct, in accordance with the said plan. Id., §3.

**Plot or plan attested.**

4. That the said plot or plan shall remain on file in the offices designated in the first section of this ordinance, and immediately upon this ordinance becoming a law, the president of the select and common council, respectively, shall endorse upon the said plot "established and adopted as the plan of the City of Harrisburg," together with the date thereof, which, when done, shall be attested by the clerk of the select and common councils, respectively, and the seal of the city shall be affixed thereto. Id., §4.

## Poles and Wires.

[See ELECTRIC COMPANIES—ELECTRIC LIGHTING APPARATUS.]

- |  |                                       |
|--|---------------------------------------|
| Abandoned poles, 12.                   | Poles, marked, 6.                     |
| Bills, &c., not to be posted upon, 10. | Poles, painted, 3.                    |
| Dead and dangerous poles, wires, &c.,  | Poles, permission to plant, 4.        |
| 15.                                    | Privileges, not affected, upon condi- |
| Inspection of poles and overhead       | tion, 8.                              |
| wires, 5.                              | Repeal, 9, 16.                        |
| License fee, 6.                        | Supervision transferred to superin-   |
| License tax, 4, 7.                     | tendent of fire alarm telegraph, 14.  |
| Permission to plant, 4.                | Telegraph poles, how planted, 1.      |
| Penalty, 2, 5, 7, 11, 13.              | Trees or poles, no bills posted upon, |
| Poles, how planted, 1.                 | 10.                                   |
| Poles, inspected annually, 5, 14.      |                                       |

### Placing of telegraph poles regulated; Proviso.

1. That all telegraph poles which may hereafter be planted in any of the streets, lanes or alleys within the city limits, are hereby required to be planted on the curb line of said streets, lanes or alleys, or as near thereto as practicable, whether the same may be curbed and paved or not, and at such points on said line as may be directed by the proper street committee; and that the poles already planted, and not in accordance with the provisions of this section, shall, upon five days' notice by the chief of police constable, supervisor or street commissioner to the company owning the same, their officer or agent, be removed by said company to the position above described; *Provided*, That the company breaking or tearing up any curbstone or pavement, shall be required to repair the same within five days. 24 Dec., 1864. 1, 184, §1.

### Penalty.

2. That any telegraph company or individual or individuals in their employ, who shall refuse or neglect to comply with the provisions of this ordinance, and being thereof duly convicted before the mayor or one of the aldermen of the city, shall be fined in a sum not exceeding five dollars for each offense—said fine to be recovered as other fines are by law recoverable. *Id.*, §2.

### Poles supporting wires to be painted.

3. That all telegraph, telephone, electric light and all other poles now or hereafter erected for the support of wires in the City of Harrisburg shall be painted, and any company or corporation which shall fail or refuse to comply with the provisions of this ordinance within thirty days after notice, shall be fined not less than twenty or more than fifty dollars, upon conviction of such failure or refusal, before the mayor or any alderman of the city. It shall be the duty of the mayor to furnish each company now doing business in this city by the use of wires and poles with a copy of this ordinance, to be left at the chief office of such company within ten days after its approval by him. 30 March, 1889. 4, 286, §1.

Application to be made; License obtained from highway commissioner; License tax.

4. That whenever permission shall have been granted by councils to any firm, corporation or individual to construct a line of

telegraph, telephone, electric light or electric railway poles in or upon any of the streets or highways of the City of Harrisburg, it shall be the duty of such firm, corporation, or individual, before any poles shall be erected, to submit to the highway commissioner a written application specifying the size and number of poles intended to be erected and designating the places where the same are to be inserted, and if no objections are made thereto, it shall be the duty of the commissioner of highways to issue a license to said applicant for the erection of the specified poles at the designated places of insertion; in case of objections being made to the whole or any part of such application, it shall be the duty of the highway commissioner to hear the same and to grant the license either in accordance with the application, or with such conditions and modifications to secure the purposes of this ordinance, as the case may require; no poles shall be newly erected without the license of the highway commissioner shall have been previously obtained therefor, as provided in this section, and for every license so granted there shall be paid to the city treasurer for the use of the city the sum of one dollar (\$1.00). 12 Jan., 1893. A, 207, §1.

**Poles to be inspected annually; Defective poles removed.**

5. It shall be the duty of the commissioner of highways to cause a thorough inspection to be made at least once every year of all telegraph, telephone, electric light or electric railway poles erected within the corporate limits of the City of Harrisburg, and if any pole shall be found defective from any cause, he shall notify the corporation, firm or individual owning such pole, who shall forthwith replace the same with a sound pole, and if the said owner refuses or neglects to replace such defective pole within forty-eight hours after receiving such notification, he or they shall be liable to a fine of five dollars (\$5.00) for each and every day during which said neglect or refusal shall continue, to be collected as debts of like amount are now by law recoverable. Id., §2.

**Poles to be marked; License to be applied for first Monday in January.**

6. All telegraph, telephone, electric light and electric railway poles now erected or hereafter to be erected in the City of Harrisburg, which are or shall be owned by any firm, corporation or individual, shall be designated by the names or initials of such owner, and each of such poles shall bear a distinctive number, together with the names or initials, and the number shall be legibly marked with oil paint upon the poles so designated; it shall be the duty of every such owner or owners annually on the first Monday in January in each year, to make application to the highway commissioner for a license to maintain the poles theretofore erected for the ensuing year, specifying the poles so to be maintained by their designation, as provided for in this section, and the commissioner of highways shall issue a license to such applicant, which shall authorize the maintenance of the poles designated in the application only for the period of one year from

the first day of April next ensuing the date of said application, and the charge of issuing such license shall be the sum of twenty-five cents (\$.25) for each and every pole authorized to be maintained thereby, and shall be paid to the city treasurer for the use of said city. Id., §3.

**Repeal; Penalty; License tax.**

7. No telegraph, telephone, electric light or electric railway poles shall be maintained in the corporate limits of the City of Harrisburg, without an annual license for the maintenance thereof shall have been previously granted for the same in accordance with the provisions of section 3 of this ordinance; any privileges heretofore granted by resolution or ordinance for the erection and maintenance of poles for any of said purposes be and the same are hereby repealed; any person violating the provisions of this section shall be liable to a fine of fifty dollars (\$50.00) for each and every pole so maintained without license, to be recovered as debts of a like amount are now by law recoverable. Id., §4.

**Privileges not affected on complying with ordinance.**

8. Upon complying with the provisions and requirements of this ordinance, the privileges heretofore granted to individuals, corporations or companies by resolution or ordinance shall not be in any way affected. Id., §5.

**Repeal.**

9. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. Id., §6.

**Bills, &c., not to be placed on trees or poles.**

10. That it shall be unlawful for any person or persons to post any bills, posters, notice, etc., on any trees or telegraph, telephone, electric light, street railway or other poles within the City of Harrisburg. 27 Dec., 1893. A, 434, §1.

**Penalty.**

11. Any person or persons violating the provisions of this ordinance shall, upon conviction thereof before the mayor or alderman of the city, be fined not exceeding fifty dollars (\$50.00) or imprisoned not exceeding ten days. All fines to be recovered as fines are now by law recoverable. Id., §2.

**Disused poles to be removed.**

12. That all telegraph, telephone, electric light and other companies or corporations erecting, or which have erected poles within the City of Harrisburg shall, upon abandoning any pole or poles or discontinuing the use thereof in any of the highways of the said city, or upon any of its sidewalks, dig up and remove the same and replace the highways or sidewalk in good order and repair. 2 Feb., 1898. B, 343, §1.

**Penalty.**

13. Any one failing or refusing to comply with the provisions of this ordinance shall, upon conviction thereof, before the mayor or any alderman of the city, be fined fifty (\$50) dollars for each and every pole. Id., §2.

## 490 POLES AND WIRES—POLICE DEPARTMENT.

**Inspection, &c., of poles and overhead wires transferred to fire and police alarm department; General annual inspection.**

14. That the inspection of and supervision over telegraph, telephone, electric light, trolley and all other poles and overhead wires located along the streets and highways of the City of Harrisburg be transferred from the highway department to the fire and police alarm department; and that at least one general inspection shall be made each year by the lineman of said fire and police alarm department under the supervision of the superintendent of the said department, and report thereof, including the number of said poles, shall be certified to the city clerk. Special inspections shall also be made with such frequency as the necessities for public safety may require. 19 March, 1906. D, 522, §1.

**Authority to remove dead poles, &c.**

15. That the superintendent of the fire and police alarm department shall have and he is hereby given authority to order the repair or removal of poles in a dangerous condition, the removal of dead poles bearing no wires, the removal of dead wires and repairs to poles or wires in a dangerous condition. Id., §2.

**Repeal.**

16. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed. Id., §3.

## Police Department.

[See FIRE ALARM TELEGRAPH—OFFICERS AND EMPLOYEES.]

Ambulance, 11.  
Charges of political activity, 8.  
Chief of police, executive head, 3.  
Chief of police, report, 3.  
Fees for services of policemen to go to city, 5.  
Intoxicated persons at fire to be arrested, 12.  
Patrol system established, 10.  
Patrol to rope off fire, 12.

Penalty for wearing star improperly, 2.  
Police, duties, 6.  
Police may serve subpoenas, 5.  
Police, to assist sanitary police, 5.  
Politics, active participation in, 7.  
Repeal, 9.  
Rules and regulations, 4.  
Star to be worn, 1.

**Police constables to wear a star or badge.**

1. That the chief police constable shall wear a metal star or badge marked "chief police constable," and members of the police force appointed by the mayor, or other competent authority, shall wear a metal star or badge marked "police constable"; said star or badges to be procured by said officers at their own expense. 11 April, 1862. 1, 49, §1.

**No person except a member of the police force, to wear a star or badge.**

2. That any person, except a member of the police force, and except also a substitute who shall be discharging the duties of a police officer, and appointed by the mayor or other competent authority, publicly wearing any such star or badge as may be worn by a member of the police force, shall, upon conviction, forfeit and pay a fine of not less than four or more than ten dollars for every offense—one-half of the fine to the informer and the other



half for the use of the city, to be recovered before the mayor as other fines and forfeitures are now by law recoverable. Id., §2.

**Chief to be executive head, subject to mayor; Report.**

3. The chief of police shall be the executive head of the police department, subject to any and all orders of the mayor, and he shall make a detailed annual report of his department to the mayor, who shall submit the same to councils. 3 April, 1903. C, 520, §2.

**Rules and regulations.**

4. The police force shall be subject to such rules and regulations for their organization and government as may be prescribed by councils under Article VII, section 4, of the act of Assembly, approved May 16, 1901 [P. L. 238]. Id., §3.

**Authority of policemen; Fees to go to city.**

5. Policemen shall have authority to serve subpoenas and execute all criminal process, or process for the violation of city ordinances, which may be issued by the mayor or any alderman, and shall charge the same fees and costs as pertain by law to the constables of the city for similar services, but all of said fees and costs shall be received and collected by the mayor and by him paid into the city treasury monthly, according to an itemized statement thereof, verified by oath or affirmation before the city controller and filed with him. Id., §4.

**Duties.**

6. The policemen shall, in addition to their other duties, assist the sanitary policemen in the performance of their duties and shall carry out such rules and regulations as may be adopted by the sanitary committee, and shall inspect all yards and alleys, public or private, in their districts, or any premises where a nuisance is supposed to exist, and if any nuisance or offensive conditions exist they shall immediately notify the owner or tenant to abate the same, and if the same is found not to be abated within twenty-four hours then they shall, by order of the sanitary committee, bring an information before the mayor or any alderman, and the offender or offenders shall be fined in a sum not less than five dollars (\$5) or more than ten dollars (\$10) and all costs; said fines shall be paid into the city treasury and placed to the credit of the sanitary committee. It shall be the duty of each policeman to make a daily report of the sanitary condition of his district to the mayor, who shall file the same with the secretary of the sanitary committee. Id., §5.

**Police to be out of politics.**

7. No police officer of this city shall serve as a delegate to any city, county or state convention, or member of any precinct, ward, city, county or state political committee, nor shall he attend any primary, general or special election to solicit votes for candidates or measures, or perform work of any kind at or before such election, on account thereof for any political party, candidates or measures, nor shall he induce others so to do, or contribute his

efforts, money or thing of value to or for any political purpose whatsoever. Id., §6.

**Charges to be investigated.**

8. The councils shall fully investigate any charge that may be made of the violation of any of the foregoing provisions. Any violation of any of the provisions hereof shall be sufficient cause for the instant removal from office of the officer so offending. Id., §7.

**Repeal.**

9. All ordinances or parts of ordinances now in existence that are inconsistent herewith, be and the same are hereby repealed; *Provided*, That nothing in this section shall be so construed as to abrogate section 7 of an ordinance passed and approved by the mayor July 14, 1882. [2, 86]<sup>1</sup>. Id., §8.

**Police patrol system established.**

10. That the mayor be and he is hereby authorized to have erected and operated a police patrol system in said city, which shall be under his management and supervision, and to this end he is empowered to procure one horse, wagon and harness, to be kept and maintained at the city's expense, and all of the necessary poles, materials, appliances, apparatus, supplies and other articles necessary for the proper construction and successful operation of the said system, and to employ three (3) men to attend to the operation of the same, said men to be appointed by the mayor and confirmed by select council, and shall be ex-officio police constables and policemen as provided by law. 24 July, 1890. 2, 365, §1.

**Ambulance in custody of police department; To be driven by drivers of patrol wagon.**

11. The ambulance shall be placed in the custody of the police department and shall be kept at the same place the police patrol wagon is kept and shall answer all calls for an ambulance; the same persons who drive the patrol wagon shall drive the ambulance and the same horses used in the police patrol shall be used in the ambulance. 17 March, 1899. B, 457, §2.

**Police patrol to rope off fires; Intoxicated persons to be arrested.**

12. That the mayor be and he is hereby directed to have the police patrol attend all fires and have the said patrol supplied with the necessary rope for the roping off of fire, and that all police officers that can be spared and called forth at the alarm shall take charge of and do the necessary roping, and they are further instructed to arrest all persons found intoxicated at the said fire. Res. 10 Nov., 1899.

<sup>1</sup> See Board of Health.

## Posts.

[See TREES AND POSTS.]

## Printing.

[See CITY TREASURER, 3—CONTRACTS.]

Parties asking for privileges must pay for printing of ordinances, 1. Repeal, 2.

### Printing of ordinances asking for privilege.

1. That on and after the passage and approval of this ordinance, no ordinance presented by any corporation, firm or individual, asking for any rights or privileges of any nature whatever shall be considered by either body until and unless said corporation, firm or individual shall have paid into the city treasury the sum of fifty (\$50) dollars to pay the expense of printing, and take his receipt therefor, which shall be attached to and accompany the ordinance. 1 March, 1893. A, 237, §1.

### Repeal.

2. All ordinances or parts of ordinances inconsistent with this ordinance, are hereby repealed. Id., §2.

## Prison.

Keeper of Dauphin county prison. Lock-up, 2. duty of, 1.

### Duty of keeper of the Dauphin county prison.

1. That the keeper of the Dauphin county prison is hereby enjoined and required to receive and keep in safe custody, in the prison of said county, at the expense of the said county, until legally discharged therefrom, any person or persons who may be committed by virtue of lawful process, issued by the mayor or any alderman or aldermen of the said city, in the manner and under the same penalties as if he, she or they had been committed by the court of quarter sessions of Dauphin county, or any judge thereof; and all neglect of duty or willful misbehavior in said keeper of said prison toward such prisoners, or any of them, shall be and the same is hereby made cognizable and punishable as a like neglect of duty or a like willful misbehavior in said keeper of said prison towards prisoners committed by any justice of the peace, or by the said court of quarter sessions, or any judge thereof of the said county, is or would be cognizable and punishable. 19 March, 1860. P. L. 192, §31.

### Lock-up.

2. That the said council shall rent, until they can provide for, erect or purchase a lock-up or watch house in some convenient part of the said city, for the detainer and confining of vagrants and persons arrested by the police officers, until the persons so arrested can be taken before the mayor or some proper magistrate for hearing, and committed to prison or discharged; but no person shall be detained in the said watch house for a longer time than twenty-four hours, except upon the order of the mayor or a

magistrate legally authorized, who may commit such person for further hearing.<sup>1</sup> Id., §49.

<sup>1</sup> See 5 April, 1873. P. L. 552, §18.

## Professional Thieves, Burglars, Etc.

Act, certain provisions of, extended, 1.  
Act further extended, 4.

Act quoted, 2.  
Appeal, regulated, 3.

### Provision of certain act extended to Harrisburg.

1. That the provisions of the act entitled "An Act to authorize the arrest of professional thieves, burglars, et cetera, in the City of Philadelphia," approved March 13, A. D. 1862, be and the same are hereby extended to the Cities of Lancaster, Harrisburg, Pittsburg and Allegheny. 20 March, 1863. P. L. 173, §1.

### Act quoted.

2. That from and after the passage of this act, if any person shall be charged on oath or affirmation before the mayor or police magistrate of the central station of the City of Philadelphia, with being a professional thief, burglar or pickpocket, and who shall have been arrested by the police authorities at any steamboat landing, railroad depot, church, banking institution, broker's office, place of public amusement, auction room, store or crowded thoroughfare in the City of Philadelphia, and if it shall be proven to the satisfaction of the said mayor or police magistrate, appointed by the mayor for the central station, by sufficient testimony that he or she was frequenting or attending such place or places, for an unlawful purpose, he or she shall be committed by the said mayor or said police magistrate to the jail of the county of Philadelphia for a term not exceeding ninety days, there to be kept at hard labor, or in the discretion of the said mayor or police magistrate of said central station, he or she shall be required to enter security for his or her good behavior for a period not exceeding one year. 13 March, 1862. P. L. 115, §1.

### Appeal.

3. That any person who may or shall feel aggrieved at any such act, judgment or determination of the said mayor or police magistrate of said central station, in and concerning the execution of this act, may apply to any judge of the court of Quarter Sessions for a writ of habeas corpus, and upon return thereof, there shall be a rehearing of the evidence, and the judge may either discharge, modify or confirm the commitment. Id., §2.

### Scope of act extended.

4. The provisions of the first section of an act to authorize the arrest of professional thieves, burglars, et cetera, in the City of Philadelphia, approved March thirteenth, one thousand eight hundred and sixty-two, be and the same is hereby extended to authorize the arrest of professional thieves, burglars or pickpockets at any hotel, restaurant, auction sale, in private residence, passen-

ger car or any other gathering of people, whether few or many, in the Cities of Philadelphia, Allegheny, Lancaster, Harrisburg and Pittsburg. 16 March, 1884. P. L. 16, §1.

## Railroads.

[See NUISANCES—PASSENGER RAILWAYS—PASSENGER RAILWAY COMPANIES.]

Chestnut Street Market Company, 18.	McCormick estate, 12.
Cumberland Valley R. R. Co., 2, 3,	Pennsylvania R. R. Co., 7, 12, 18, 15.
4, 5, 18, 19.	Meadow lane vacated, 3.
Elder & Brothers, 14.	Philadelphia and Reading R. R. Co.,
Flagman at certain streets, 2.	8, 11, 14, 16.
Harrisburg Terminal R. R. Co., 10.	Robert Tippet, 15.
W. O. Hickok, 18.	Safety gates regulated, 1.
Lebanon Valley R. R. Co., 9, 10, 11.	South Pennsylvania R. R. Co., 8.
Manufacturers' R. R. Co., 6.	William Sheesley, 16.
McCormick & Company, 17.	Track to be planked, &c., 19.

### Safety gates; Penalty.

1. That all railroad companies whose tracks cross any street of this city at grade shall place, maintain and keep in operation safety gates at each and every such crossing, which shall be closed on the approach of each and every train, car or locomotive, and opened immediately after such locomotive, car or train has passed; *Provided*, That no such safety gates shall be kept closed for a longer time than ten minutes. And any railroad company that shall fail, neglect or refuse to comply with all the provisions of this ordinance within ninety days after the date of its passage shall, upon conviction thereof before the mayor or any alderman of the city, be fined not less than fifty or more than one hundred dollars. 29 May, 1884. 3, 586, §1.

### Flagman at certain crossings.

2. That from and after the passage of this act, it shall be the duty of the Cumberland Valley Railroad Company to keep signals and flagmen stationed on Front street, on Second street, on Third street and on Fourth street, along their line of railroad, in the City of Harrisburg, whose duty it shall be to signal the approach of all trains upon said road, and also give good and timely notice to all persons either walking, riding or driving towards said railroad, upon the approach of all trains of cars; for each and every violation of this act the said company shall forfeit and pay to the City of Harrisburg a fine of not less than three hundred nor more than three thousand dollars, recoverable in the courts of Dauphin county. 23 March, 1865. P. L. 536, §1.

### Cumberland Valley Railroad Co.

3. Permitting the Cumberland Valley Railroad Company to occupy a portion of Meadow lane. 14 Sept., 1879. 1, 434.

### Meadow lane vacated.

4. To vacate Meadow lane, in the City of Harrisburg, between the south side of Chestnut street and the center line of Mulberry street, upon the observance of the hereinafter named covenants. 10 Feb., 1896. B, 20.

**Cumberland Valley Railroad Co.**

5. Granting permission to the Cumberland Valley Railroad Company to erect and maintain telegraph wires between the eastern end of its bridge in the City of Harrisburg and its office in Fourth street. 17 Jan., 1903. O, 461.

**Manufacturers' Railroad Co.; Use of certain streets granted; Proviso.**

6. Resolution: WHEREAS, The Manufacturers' Railroad Company have, in accordance with law, requested authority from the city council for the location of a railroad in and through certain wards of this city; therefore, be it

*Resolved*, That the Manufacturers' Railroad Company be and they are hereby authorized to locate a railroad for purposes of traffic in and through the Second and Ninth wards of the City of Harrisburg, under the act of Assembly, approved the ninth day of April, 1868, as laid out on a plot of city by commissioners appointed for that purpose, and to cross such streets as may be necessary, viz: Beginning at a point on the Reading Railroad, at or near Sixteenth street; thence crossing Sixteenth street, Berryhill street, Swatara street, running along Eighteenth street, between Swatara and Holly streets, terminating on grounds of the Harrisburg Car Company; *Provided*, That said road be so constructed and kept in repair as to cause no obstruction to said streets, the pavements or gutters belonging to the same, or in any way interfere with the ordinary use of said pavements, gutters or streets, and all damages arising by the location of said railroad shall be paid by the said Manufacturers' Railroad Company. 2 July, 1870. 1, 427.

**Pennsylvania Railroad Co.**

7. To abolish and avoid grade crossings by the erection of overhead bridges and approaches thereto, over the new line between Harrisburg, Portsmouth, Mount Joy and Lancaster Railroad (leased to and operated by the Pennsylvania Railroad Company), south of Market street, and to open, vacate and change the grade of certain streets for the purpose aforesaid. 3 Dec., 1887. 2, 249.

**Philadelphia and Reading Railroad Co.; South Penna. R. R. Co.**

8. Extending permission unto the Philadelphia and Reading Railroad Company and the South Pennsylvania Railroad Company, or either of them, to erect and maintain piers on which to build a railroad bridge on tracks within the City of Harrisburg. 5 April, 1884. 3, 577.

**Lebanon Valley Railroad Co.**

9. To abolish and avoid grade crossings by the erection of an overhead bridge covering the tracks of the Lebanon Valley Railroad Company, on the line of Mulberry street, and to extend said overhead bridge to the intersection of Crescent street, in the City of Harrisburg; to provide the means therefor, and to vacate the surface of Mulberry street between the lines of the right of way of the Lebanon Valley Railroad Company. 20 Jan., 1890. 4, 358.

**Philadelphia and Reading Railroad Co.; Harrisburg Terminal Railroad Co.**

10. Relating to the construction of railroad tracks within the City of Harrisburg by the Philadelphia and Reading Railroad Company and the Harrisburg Terminal Railroad Company, or either of them, and authorizing them, or either of them, to enter upon and occupy certain streets in the said city, and prescribing the conditions for the said entry and occupancy. 28 Jan., 1890. 4, 373.

**Lebanon Valley Railroad Co.**

11. To accept and assume charge of the overhead bridge over tracks of the Lebanon Valley branch of the Philadelphia and Reading Railroad Company, on the line of Mulberry street, and to ratify and confirm the several matters and things done by the Philadelphia and Reading Railroad Company in and about the erection and construction of said bridge and the approaches and connections thereto. 1 July, 1891. 4, 516.

**Railroad on Canal street; McCormick estate; Proviso.**

12. That the trustees of the McCormick estate be and they are hereby authorized to construct a railroad across Canal street, between State street and South street, to connect their property with the Pennsylvania Central Railroad; *Provided*, That said road be so constructed and kept in repair as to cause no obstruction to said street, the pavements or gutters belonging to the same, or in any way interfere with the ordinary use of said pavement, gutters or street; *And provided, further*, That the said trustees first pay into the city treasury the sum of twenty dollars for the purpose of defraying the expenses of publishing this ordinance. 10 Dec., 1862. 1, 592, §1.

**Railroad across North street; W. O. Hickok; Proviso.**

13. That W. O. Hickok be and he is hereby authorized to construct a railroad across North street, at Canal street, to connect his works with the Pennsylvania Central Railroad; *Provided*, That said road be so constructed and kept in repair as to cause no obstruction to said street, the pavement or gutters belonging to the same, or in any way interfere with the ordinary use of said pavements, gutters or street. 7 July, 1866. 1, 264, §1.

**Railroad across Market street; Elder & Brother; Proviso.**

14. That Messrs. Elder & Brother are hereby authorized to construct a railroad across Market street from the terminus of the siding of the Reading Railroad, on the eastern side of the Pennsylvania Canal, to their property on the upper side of Market street; *Provided*, that said Elder & Brother enter into an agreement with approved security, to protect the city from any damages that may occur to persons or property in consequence of the construction of said railroad, and to conform to the present grade or any grade that may hereafter be established for Market street. 8 Sept., 1868. 1, 370, §1.

**Railroad across Hanna and Nagle streets; Robert Tippet; Proviso.**

15. That Robert Tippet is hereby authorized to lay a railroad track across Hanna and Nagle streets, between Race and Second streets, to connect his coal yard with the Pennsylvania Railroad; *Provided*, That said Robert Tippet binds himself to erect and maintain suitable crossings at each street, to conform to the grades of the same, and to allow no obstructions in or upon the gutters, pavements or roadways of either of said streets. 6 July, 1869. 1, 399, §1.

**Railroad across Hemlock street; William Sheesley; Proviso.**

16. That William Sheesley be and he is hereby authorized to construct a railroad across Hemlock street, between Ninth street and Tenth street, to connect his property with the Baldwin extension of the Philadelphia and Reading Railroad; *Provided*, That said road be so constructed and kept in repair as to cause no obstruction to said Hemlock street, the pavements and gutters belonging to the same, or in any way interfere with the ordinary use of said pavements, gutters or street. 14 Sept., 1880. 3, 305, §1.

**Railroad on Canal bridge and Shaonis street; McCormick & Co.**

17. That Messrs. McCormick & Company be and they are hereby permitted and authorized to lay a railroad track on the Canal bridge on Shaonis street and along the south side of said street, crossing Eleventh street at its intersection with Shaonis street, using flat rails, to be laid under the direction of the city engineer, in accordance with the accompanying plan, which is hereby made a part of this ordinance. 6 May, 1885. 2, 115, §1.

**Railroad side track on Mulberry street; Chestnut Street Market Co.**

18. That authority is hereby granted to the Cumberland Valley Railroad Company to construct a side track on the north side of Mulberry street, along the frontage on said street of the property of the Chestnut Street Market Company, with the switches necessary to connect said siding with the main track of said railroad company. Said side track to be exclusively for the use of the said Chestnut Street Market Company, and that the city shall not be held responsible for any damage that may be sustained by the construction of said side track. 31 Aug., 1888. 4, 264, §1.

**Track to be planked, &c.**

19. Be it further provided, that said side track shall be planked in a substantial manner for the easy passage of vehicles, and be kept in thorough repair as far as the city supervisor may direct. *Id.*, §2.

**River Bank.**

[See NUISANCES—PARK COMMISSION AND PARKS.]

Cleaning carpet, where unlawful, 3.  
Protected between Vine street and North street, 3.  
Protected between Walnut and North streets, 2.

Protected from North to Maclay streets, 4.  
Protected from Walnut street to "Old Ferry," 1.



Stones, brickbats, &c., may not be thrown on or over upper bank; Penalty; Proviso.

1. That hereafter it shall not be lawful for any person or persons to deposit, cast or lay, or cause to be deposited, cast or laid, or thrown over or on the upper bank of the river, on Front street, in said city, between Walnut street and what is commonly known as the old ferry, near the red warehouse, any stones, brickbats, plaster, stone, coal ashes, oyster shells, tin or sheet iron cuttings or strips, leather cuttings, or the rubbish or sweepings of paper, or other matter from any store room, cellar, shop, office or tobacco shop, or any brush, branches or limbs of trees or shrubbery, or the grass, weeds or other dirt from any garden, yard or lot of ground, or any corn husks, dirt, filth or other matter of any kind whatsoever; and any person or persons, he, she or they, so offending, either by themselves or through the servants in their employment, and being thereof duly convicted before the mayor or any alderman of said city, shall be fined in any sum not exceeding ten dollars and costs, and also shall be liable to pay the expense of removing such prohibited matter by the order of the mayor; the one-half of said fine to be for the use of the informer and the other half to be paid into the city treasury, as in other cases; *Provided*, That nothing herein shall be so construed as to prohibit earth or other material from being placed or deposited on the upper bank of the river as aforesaid, in order to repair, improve and keep in order the same, under the permission of the council aforesaid. 11 Dec., 1860. 1, 7, §1.

**Ordinance extended.**

2. That the prohibitions and penalties contained in an ordinance passed December 11, [20] 1860, entitled an ordinance to protect the bank of the river, between Walnut street and that point known as the old ferry, near the red warehouse, shall hereafter be extended and applied to the river bank between Walnut street and North street. 3 March, 1860. A, 86, §11.

**Cleaning of carpet prohibited.**

3. That the provisions, prohibitions and penalties of the ordinance [of 11 Dec., 1860. 1, 7] to which this is a supplement, shall be and the same are hereby extended and applied to the cleaning of carpet upon the bank of the river, between Vine street and North street, which shall hereafter be unlawful. 5 April, 1879. 2, 77, §1.

**Ordinance extended.**

4. That the provisions, prohibitions and penalties of the ordinance to which this is a supplement, be and the same are hereby extended and applied to the river bank from North street to Macfarlane street. 6 July, 1899. B, 515, §1.

## SALARIES.

[See OFFICERS AND EMPLOYEES.]

## School Directors.

### Qualifications of candidates and voters.

1. No person shall hereafter be chosen to serve as a member of common council or board of directors of public schools of said city, unless, in addition to the qualifications now required by law, he shall also be the owner in fee simple of real estate situate within the limits of said city, and subject to taxation for city and school purposes; and that hereafter no person shall vote for school directors unless such person has paid a school tax within one year previous to voting, which tax shall have been assessed at least ten days previous to voting. 5 April, 1873. P. L. 552, 10.

## Sewers.<sup>1</sup>

(For Individual Sewers, see Note at End of Chapter on Streets.)

Connections, by whom made, 9.  
Fees for tapping, 8.  
Fees for tapping, appropriated, 12.  
Intercepting sewer, penalties for pouring refuse in, 14.  
Intercepting sewer, protection of, 13.  
Penalty for tapping unlawfully, &c., 10.  
Penalty for violating ordinances, 2, 6.

Properties must connect with sewer, 1.  
Repeal, 3, 7, 11.  
Steelton and Harrisburg Brick Company, permission to, 15.  
Tapping, by whom to be done, 5.  
Traps, 4.  
Water closets, 4.

### Properties to be connected with sewer.

1. That every owner of a lot or piece of ground which abuts upon a highway, street, alley, or avenue, in which a sewer has been laid, shall, within thirty days after having received notice from the highway commissioner or a sanitary officer, by a proper connection, to be approved by said commissioner, drain the said lot or piece of ground and all privies or water closets thereon into such sewer. 2 Nov., 1891. 4, 523, §1.

### Penalty.

2. Every such owner who shall fail to comply with the requirement of the above section hereof shall, upon conviction thereof before the mayor or any alderman of said city, be fined in the sum of five dollars for each and every day such owner shall fail to comply with the requirements aforesaid, and such fine shall be recovered as fines are by law recoverable. Id., §2.

### Repeal.

3. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. Id., §3.

<sup>1</sup> Ordinance of 3 Dec., 1878. 2, 69, made the whole city one sewer district. Sewer district number 1 was created by ordinance of 27 March, 1884. 3, 575. District number 2 by ordinance of 18 Aug., 1884. 3, 601. District number 3 by ordinance of 30 March, 1889. 4, 290. District number 4 by ordinance of 7 Dec., 1889.

4, 415. District number 5 by ordinance 27 Sept., 1889. 4, 402. District number 6 by ordinance of 31 Oct., 1892. A, 153. District number 7 by ordinance of 23 Nov., 1892. A, 176. District number 8 by ordinance of 2 Jan., 1893. C, 200. District number 9 by ordinance of 6 July, 1893. A, 330.

**Traps.**

4. That all water closets hereafter connected with sewers or hereafter when the water closets are repaired and it is necessary to connect with the sewers, they shall be provided with a trap of the same size as the sewer; which trap shall be placed between the said water closet or closets and the point where the connection is or shall be made with any other sewer under the supervision and direction of the city engineer. 9 July, 1897. B, 238, §1.

**Tapping, by whom to be done.**

5. The tapping of any sewer for the purpose of draining water closets must be done by a practical plumber or brick mason, under the supervision of the city engineer. Id., §2.

**Penalty.**

6. Any plumber, brick mason, or other person or persons violating any of the provisions of this ordinance shall, upon conviction thereof before the mayor or any alderman of the city, be punished by a fine of not less than twenty-five dollars, or more than seventy-five dollars, to be recovered as fines are by law recoverable, and upon failure to pay said fine shall undergo imprisonment for a period of not more than twenty-five (25) days. Id., §3.

**Repeal.**

7. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed. Id., §4.

**Tapping fees.**

8. That hereafter no sewer in any public highway of the city shall be tapped by any one except upon first paying into the city treasury the sum or fee of one dollar and twenty-five cents per front foot (\$1.25) that shall be drained by said connection. 8 March, 1902. C, 217, §1.

**Connections, by whom to be made.**

9. That all connections with the public sewers of the city shall be made by plumbers legally licensed in accordance with section 27 of the Act of General Assembly, approved May 16, 1901, and shall be made in the presence of the city engineer or his assistant, and subject to his supervision and direction. Id., §2.

**Penalty.**

10. Anyone violating any of the provisions of this ordinance shall, upon conviction thereof before the mayor or any alderman of the city, be fined not less than twenty-five dollars, or more than one hundred dollars, and costs; and in default of the payment thereof shall be imprisoned in the jail of Dauphin county for a period not exceeding thirty (30) days. Id., §3.

**Repeal.**

11. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed. Id., §4.

**Fees for sewer tapping, appropriated.**

12. That all revenues derived from fees paid for tapping the city's system of sewers be and the same are hereby directed and

required to be set aside in a special fund to be designated the "Sewer Construction Fund," and that said fund shall be used for the construction of new sewers and for no other purpose. 11 July, 1904. D, 100, §1.

**Intercepting sewer.**

13. That no dirt, ashes, garbage or other refuse matter of any kind shall be cast, thrown or otherwise placed in the intercepting sewer, or in any of the catch or silt basins attached thereto. 6 July, 1905. D, 359, §1.

**Penalty.**

14. Any person violating the provisions of this ordinance shall, upon conviction thereof before the mayor or any alderman of the city, be sentenced to pay a fine of not more than one hundred (\$100) dollars, and in default of the payment thereof, shall be committed to the jail of Dauphin county for a period not exceeding thirty (30) days. Id., §2.

**Steelton and Harrisburg Brick Company, authorized to tap intercepting sewer; Proviso.**

15. That permission be and the same is hereby granted to the Steelton and Harrisburg Brick Company to tap the intercepting sewer of the City of Harrisburg for the purpose of draining its low lands lying in the vicinity of Tenth and Muench streets, of standing pools and other stagnant waters lying on said lands, and for this purpose only; *Provided*, The connection with the said intercepting sewer shall be made under the supervision of the board of public works, through a silt-basin at the expense of the said brick company; *And provided further*, That the permission hereby granted shall not be construed to include the right to connect ordinary sewer drainage with the said intercepting sewer; *And provided also*, That the said connection and silt-basin shall be kept and maintained in such manner as not to obstruct the free flow through the said intercepting sewer. 1 April, 1905. D, 315, §1.

## **Sewer Construction Fund.**

[See SEWERS.]

## **Sinking Fund.**

[See LICENSE AND LICENSE TAXES, 25—SINKING FUND COMMISSIONERS—TAXATION.]

**City controller to open and keep sinking fund accounts.**

1. That the city controller is hereby authorized to open and keep, in a separate set of books, separate accounts of the various sinking funds of the city and its several departments in detail, from the time of the incorporation of the city until the present time, and to continue to keep therein said accounts, and the sum of three hundred dollars, or so much thereof as may be necessary, is hereby

appropriated out of any of the revenue of the current year not otherwise expended for the purpose of defraying the extra cost of said work. 4 Jan., 1895. A, 601, §1.

## Sinking Fund Commissioners.

[See SINKING FUND—STREETS—TAXATION.]

## Shade Trees.

[See TREES AND POSTS.]

Defacing houses and fences, prohibited, 2.	Penalties, how recoverable, 3.
Hitching of horses to; penalty, 4.	Shade trees to be protected; penalty, 1.

### Shade trees.

1. That if any person or persons shall willfully, carelessly or negligently break, pull down, injure or destroy any tree or trees, or frame or enclosure around the same, which are now or may be hereafter planted or erected, as provided by an ordinance on that subject, near the curb or gutter of any of the streets of the city, or in any public grounds within the city, such person or persons so offending shall forfeit and pay five dollars for every such offense; *Provided always*, That nothing herein contained shall be so construed as to prevent any owner or proprietor of a lot or lots from cutting down any tree or trees near the gutter in front of his or her lot or lots. 22 Nov., 1861. 1, 70, §1.

### Defacing of house or fence.

2. That if any person or persons shall willfully, maliciously or wantonly injure or deface any house or premises within the city, or any house or fence, or enclosure, or any other appurtenances thereto, such persons, for each and every such offense, shall forfeit and pay not less than ten or more than twenty dollars, and shall moreover be liable to pay all expenses of repairing the said injury or injuries committed. Id., §2.

### Penalty.

3. That the penalties imposed by this ordinance shall be recovered before the mayor or any alderman of this city, as other penalties are by law recoverable. Id., §3.

### Hitching of horses to shade trees prohibited.

4. That it shall hereafter be unlawful to hitch or fasten any horse or horses to any of the shade trees planted along the pavements, within the city limits; and every person offending against the provisions of this ordinance shall, upon conviction thereof before the mayor or any alderman of the city, pay a fine of five dollars for the use of the city, for each and every offense, together with all legal costs. 9 Aug., 1873. 3, 14, §1.

## Skating Rinks.

[See LICENSE AND LICENSE TAXES.]

License for; Penalty.

1. That every place of amusement known as a skating rink, kept or maintained in this city, shall pay into the city treasury monthly, at the beginning of each and every month, after the passage of this ordinance, the sum of twelve dollars and fifty cents, and thereupon the city treasurer shall issue to the owner or manager of such establishment a license certificate. The provisions of this ordinance to take effect January 1st, 1886.

That any owner of any skating rink, or of any place used as such, or any manager, agent or employe of any such owner, who shall keep or maintain, or aid or assist in maintaining any skating rink, open to the public for more than five days after the first day of any month after the first day of January, 1886, without having complied with the foregoing section, shall, upon conviction thereof before the mayor or any alderman of the city, be fined not exceeding one hundred dollars. 29 May, 1885. 4, 9, §1.

## Steam Heat and Power Company.

City not liable for damages, 1.  
Grant of use of streets, &c., 1.  
Responsibility for damages, 1.  
Trenches to be filled solidly, 1.

Trenches to be puddled or tamped, 1.  
Work to be done properly, 1.  
Work under supervision of city engineer, 1.

Use of certain streets, &c., granted; Proviso.

1. That the select and common councils of the City of Harrisburg do hereby give and grant to William W. Jennings, E. Z. Wollower, David Fleming, Dr. George W. Reilly, William M. Donaldson, Joshua W. Jones, Thomas H. Heist, Joseph Strouse and Harris Cohen and their associates, or to the company formed by them as aforesaid, the right and privilege of entering upon the streets, lanes and avenues of the said city for the purpose of digging trenches and laying therein the necessary pipes and fixtures for conveying their steam or heat to consumers; with the privilege also of re-entering upon the same from time to time and re-laying and repairing said pipes and fixtures as may be necessary or expedient, upon the following express conditions; *Provided*, That the said company in digging their trenches and laying their pipes shall execute the same with as little delay and inconvenience to the public as possible, and after laying their pipes and fixtures shall restore the streets to as good a condition as they were in before the entering of the same, all of which shall be done without any expense whatever to the City of Harrisburg, and providing no trench shall be kept open more than one week; *And provided further*, That the trenches which may be dug open shall be filled up in a solid, substantial manner, as the pipes are laid as soon as practicable, so as to avoid accidents, and all water pipes, cross-

walks or any of the inlets to the sewers or gutters, where interfered with, shall be thoroughly repaired at the expense of the company; *And provided further*, In filling, all trenches shall be either puddled or tamped; *And provided further*, That said company shall be held responsible for all damages, loss or injuries that may happen by reason of the digging open of the streets, lanes and avenues and laying the pipes and fixtures for conveying their steam or heat to consumers as aforesaid; *And provided further*, That the City of Harrisburg shall be liable to no damages on account of the change of any grade in any street, lane or avenue where the pipes of said company are laid; *And provided further*, The work shall at all times be under the supervision of the city engineer, acting for the highway committee. 14 Oct., 1886. 2, 150, §1.

### Stock.

[See ANIMALS AT LARGE—NUISANCES.]

### Street Main Extension Fund.

Fund created, 1.  
Fund to be kept separate, 2.

Report on, monthly, 3.

#### Fund created.

1. That all moneys received or assessments heretofore made or to be made for laying or extending street water mains, shall be paid into this fund, and all indebtedness incurred for labor or material used or to be used in laying or extending street mains shall be paid out of this fund. 10 Feb., 1891. 4, 493, §1.

#### Fund to be kept separate.

2. This fund shall be kept separate and distinct from any other, and the moneys paid into it shall not be used for any other purpose than as herein prescribed. Id., §2.

#### Reports.

3. The city treasurer shall furnish councils, at the first regular meeting of each month, a written statement, showing the balance at last report, amounts received and paid since, and amount on hand on the first of the current month. Id., §3.

Streets.<sup>1</sup>

[See BICYCLES—BRIDGES—BUILDINGS—FIRE DEPARTMENT—  
HOUSE NUMBERS—NUISANCES—PASSENGER RAILWAYS—  
PAVEMENTS AND CURBS—PLAN OR PLOT OF CITY—  
POLES AND WIRES—RAILROADS—SUBWAYS—  
WATER AND LIGHT DEPARTMENT.]

(For Individual Streets, see Note at End of this Chapter.)

- Alleys, less than 19 feet, 6.
- Curbing; see Opening.
- Digging up, regulated, 10, 16, 19.
- Excavations, &c., red light at night, 81.
- Grade, 5, 5a.
- Names, how given, 4.
- Names, index book of, 8.
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- Paved streets, bids for, 24.
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- Paved streets, repair of, 20.
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- Penalty for violating ordinances, 5, 18, 17, 31.
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- Street signs, 9.
- Trenches, how filled, 11.
- Trenches, open, to be reported, 12.
- Trenches, when filled, 14.
- Widening; see Opening.
- Width of, regulated, 1.

**Width of streets, &c.**

1. That the width of the several streets, lanes and alleys within the city shall be as marked in the several plans as the same have been laid out and recorded. 15 July, 1862. 1, 57, §1.

**Names to be reported.**

2. That hereafter all persons laying out streets or alleys intended for the use of their own properties, or for public or private use, and intended to be kept for that purpose, shall report the same, with a description or draft, to the clerk of the common council of the City of Harrisburg. 7 Jan., 1871. 1, 441, §1.

**Index book of names.**

3. That the clerk of the common council shall procure an index book, wherein he shall enter the names of all streets and alleys alphabetically, designated on the plot of the city, as authorized by the act of Assembly of January 5, 1871; and all that may hereafter be reported under the provisions of this ordinance, to which the citizens and city surveyors shall at all times have access. Id., §2.

**Committee on streets to name same, when not given.**

4. When no name is given to such reported street or alley, the committee or committees on streets of common council shall thereupon name the same, and such name shall not be a duplicate of one already entered upon said index. Id., §3.

<sup>1</sup> See 5 April, 1873. P. L. 552, §20.



**Penalty.**

5. Any person or persons neglecting or failing to comply with the provisions of this ordinance within six months after such street or alley shall have been laid out, shall, upon complaint by any person or persons to the mayor of such neglect or refusal, be liable to a fine of five dollars, to be collected as other fines are directed to be, and without other cost, one dollar of which said penalty shall go to the informer, one dollar to the mayor, and the remainder be paid to the city treasurer by said mayor, to be accounted for by him as other fines are provided to be when paid into the city treasury. Id., §4.

**Grade.**

5a. That the grade of such streets or alleys shall be under the direction of and fixed by said city. Id., §5.

**Streets, alleys, when so denominated.**

6. That hereafter all highways of the city nineteen feet or more in width, now designated avenues, shall be denominated streets; and all highways less than nineteen feet in width, now designated avenues, shall be denominated alleys. 21 March, 1905, D, 284, §1.

**Official plan to be altered.**

7. That the city engineer shall make the necessary alterations upon the city official plan, so as to have the said plan conform to the provisions of this ordinance. Id., §2.

**Repeal.**

8. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed. Id., §3.

**Street signs.**

9. That the said highway commissioner is hereby directed to have the names on the street signs of all streets and avenues of this city placed conspicuously at the various intersections thereof. 12 June, 1901. C, 50, §2.

**Digging up highways regulated.**

10. That on and after the approval of this ordinance, no company, corporation, person or persons, shall dig or excavate any trench or trenches in or upon the highways of this city between the fifteenth day of December and the first day of February of each and every year; *Provided*, Nothing in this ordinance shall be construed against the right to repair damage caused by breakage or leakage in sewers, drains, water pipes, gas pipes, steam pipes, or underground wires and cables during the period aforesaid. 12 May, 1887. 4, 148, §1; amended 30 Nov., 1903. C, 695, §1.

**Trenches to be filled after notice.**

11. Any and all such trenches dug or excavated during the period aforesaid shall be filled to their original or proper grade level by the authorized and proper authorities of said city within twenty-four hours after notice to the mayor or any alderman, by any citizen, that such trench or trenches exist, and a lien equal in amount to the expense of such filling shall be immediately entered

by the proper and authorized officer of said city against any corporation, association, company, person or persons violating this ordinance. 12 May, 1887. 4, 148, §2.

**Penalty to officer for failure to report.**

12. It shall be the duty of every policeman, patrolman and supervisor, under penalty of a fine of not less than one dollar or more than twenty dollars, to be imposed by the mayor (and it shall also be the right of any citizen), to report the existence of any and all such trenches as aforesaid to the mayor or any alderman of said city, who shall take immediate action thereon. Id., §3.

**Penalty for violation.**

13. Any corporation, association, company, person or persons convicted of violating the provisions of this ordinance shall be fined not less than one hundred dollars, or more than one thousand dollars for each and every violation, and one-half of such fine paid shall be placed in the sinking fund of said city, and one-half shall be paid the informant or informants thereof. Id., §4.

**Penalty for trenches open after December 1st.**

14. In case any and all such trenches which may be open on the first day of December are not filled to their proper or grade level within three days thereafter, the provisions and penalties of this ordinance shall be applied immediately. Id., §5.

**Repeal.**

15. All parts of any ordinance inconsistent herewith be and the same are hereby repealed. Id., §6.

**Permit for digging open street to be obtained.**

16. That no person or persons, firm or corporation, shall dig open any street, avenue or alley of this city, or make any excavation therein for any purpose whatever, without first obtaining from the highway commissioner a written permit so to do, which permit shall state the name of the street, and the purpose, extent and character of the opening, and the time for which the said opening shall exist. 5 July, 1893. A, 325, §1.

**Penalty.**

17. Any person or persons, firm or corporation, and any officer, agent, contractor, workman or employes thereof, who shall violate any of the provisions of this ordinance, or who shall, after having obtained a permit from the highway commissioner, dig open a greater extent of any public highway than is mentioned in said permit, or who shall keep said excavation open for a longer time than is mentioned in said permit, or who, having received a permit, and having by virtue thereof dug open any street, avenue or alley, shall fail or refuse to place the said street, avenue, or alley in as good condition as it was before the said opening, and any person who shall aid, assist or abet therein, shall, upon conviction thereof before the mayor or any alderman of the city, be fined not exceeding one hundred dollars for any one offense, recoverable with costs, together with judgment of imprisonment not exceeding thirty days, if the amount of said judgment and costs shall not be paid. Id., §2.

**Repeal.**

18. All ordinances or parts thereof inconsistent herewith be and the same are hereby repealed.<sup>1</sup> Id., §3.

**Before paving contract is awarded, city engineer to notify owners to make necessary connections; Duty of owners; Not lawful to break into highway without consent, &c.; Penalty.**

19. That it shall be the duty of the city engineer, before any contract is finally awarded for the paving of any street, avenue or other highway of this city, to give due notice thereof to all the property owners along the line of such street, avenue or other highway, by publication in two daily newspapers of the city, and by personal service upon such owners as can be found, and by leaving a written or printed copy of such notice upon the premises, which notice shall require all such property owners to make the necessary house connections contemplated by them, with the main sewer, gas pipe, steam heating pipe, water pipe or other mains in such street within a reasonable time, to be fixed by the city engineer, not exceeding sixty days, and conduct the service pipes or sewers from the mains in the street to the sidewalk inside the curb lines. And it shall be the duty of all such owners of property, within the time fixed by the city engineer, to make such connections under the direction of and subject to such regulations in each case, as shall be fixed by the city engineer. It shall not be lawful for any person to break into or open any street or avenue within this city, without consent of the committee on highways, and under such conditions as may be established by ordinance, and any person who shall violate the provisions of this section shall, on conviction thereof before the mayor or any alderman of this city, be fined not exceeding one hundred dollars. 3 Oct., 1887. 4, 172, §1.

**Paved streets to be repaired.**

20. That from and after the passage of this ordinance and the execution of a contract in accordance with the terms thereof, the streets of the City of Harrisburg now paved with sheet asphaltum be repaired and kept in good order and repair by contract. 20 June, 1899. B, 396, §1.

**Proposals for repairing.**

21. That the highway commissioner be, and he is hereby authorized to advertise in two newspapers of the City of Harrisburg, for a period of not less than ten days, first, for sealed proposals for repairing all streets of the City of Harrisburg now paved with sheet asphaltum, and shall give notice that all bids shall be accompanied with a bond, with two good and sufficient sureties, to be approved by councils, in the sum of two thousand dollars, conditioned for the faithful performance of and compliance with all the terms of the contract, in case the same shall be awarded. The bids shall be submitted to councils for approval, and the right to reject any and all bids is hereby reserved. Id., §2.

<sup>1</sup> See 15 Oct., 1892. A, 132.

**Contract to be awarded; Limitations.**

22. That the highway commissioner be, and he is hereby, authorized to advertise, secondly, for sealed proposals for repairing and keeping in good order and repair all the streets of the City of Harrisburg now paved with sheet asphaltum for a term of ten (10) years from the date of the execution of the contract, and award a contract therefor to the lowest responsible bidder; *Provided, however,* That any street now paved with asphalt upon which the guarantee to keep the same in order under the contract for the paving of said street has not yet expired, shall be excluded from said contract during the continuance of said guarantee, but said streets shall be included in the contract from and after the time the aforesaid guarantee has expired. The highway commissioner shall advertise for proposals as aforesaid in two newspapers of the City of Harrisburg for a period of not less than ten days, and shall give notice in said advertisement that all bids shall be accompanied with a bond, with two good and sufficient sureties, to be approved by councils, in the sum of ten thousand dollars, conditioned for the faithful performance of and compliance with all the terms of the contract, in case the same shall be awarded. The bids shall be submitted to councils for approval, and the right to reject any and all bids is hereby reserved. Id., §3.

**Specifications.**

23. It shall be the duty of the city engineer to prepare full specifications of the plan and manner for repairing and keeping in good order and repair the streets aforesaid; and all bids shall be based upon, and all work under the contract awarded shall be done according to, the general requirements and stipulations contained in said specifications; but the amount of work to be done in a particular place and the time of doing it shall be as the highway commissioner shall from time to time direct. Id., §4.

**Bids regulated.**

24. The bids shall be for an equal sum for each of the ten years during the continuance of the contract, but it is not required, however, that the contractor shall expend in the performance of his work under the contract the same amount each year. Id., §5.

**Repeal.**

25. All ordinances or parts of ordinances in conflict herewith or supplied hereby be and the same are hereby repealed. Id., §8.

**Proposals to clean paved highways to be advertised for.**

26. That the highway commissioner shall advertise for sealed proposals for the cleaning of the paved highways of the city by contract, under specifications to be approved by councils, after the first Monday in April, 1905. 2 Dec., 1904. D, 197, §1.

**Term of proposals; Councils to award.**

27. That said sealed proposals shall be advertised to be opened on the first Monday in January, 1905, and shall call for proposals for one, three or five years. The said highway commissioner shall submit the said proposals to councils, and councils shall

award a contract to the lowest and best bidder, reserving the right to reject any and all bids. Id., §2.

**Proceedings for opening or widening public highways.**

28. That after the passage and approval of all ordinances for the opening or widening of any public highway in the city, the city engineer shall prepare and certify to the city solicitor a map or plan showing the improvement and the names of all owners of property abutting thereon, and the city solicitor shall notify all persons whose property shall be affected by the improvement, of the passage and approval of the ordinance, requesting them to file at his office, within thirty days, a statement of the compensation claimed by each of them for the damages which may accrue to them from the improvement, for the purpose of agreeing upon such compensation, if possible, which statement shall be submitted to councils for approval. In case the compensation for damages cannot be agreed upon, the city solicitor may apply to the Court of Common Pleas for the appointment of viewers to assess the same according to law. 19 March, 1906. D, 524, §1.

**Proceedings for grading public highways.**

29. That after the passage and approval of all ordinances for the grading of any public highway in the city, the costs and expenses whereof shall be assessed according to benefits, the city engineer shall prepare the profile measurements, survey and map or plans necessary to grade such highways to the grade established therefor; and the highway commissioner shall advertise for bids for the grading of the highways and award the work to the lowest responsible bidder or bidders, subject to the approval of councils; and the city solicitor shall, within five days after the final confirmation of the report of viewers, cause to be certified to the city treasurer the list of assessments made by the said viewers, and the same shall be due and payable to the city treasurer within thirty days after the final confirmation thereof; due notice of which shall be given to the owner or owners of each property by the city treasurer, and at the expiration of said thirty days, the city treasurer shall certify the names of the delinquents, together with an accurate description of their several properties, to the city solicitor, who shall thereupon file liens for such assessments in the proper office and proceed to collect the same according to law. That at the expiration of thirty days after the final confirmation of the report of the viewers, and after the completion of the work and its approval and acceptance by the highway commissioner, the mayor, city treasurer and controller, constituting the sinking fund commissioners, shall make and issue to the contractor improvement bonds in the usual and proper form, with coupons attached for the amounts of the assessments outstanding, which bonds and all transfers thereof shall be registered at the city depository, and shall be issued in denominations of one hundred dollars, two hundred dollars and five hundred dollars, be numbered seriatim, and shall express upon their face that they bear interest at the rate of five per centum per annum, payable

semi-annually; that the principal and interest rest alone upon and are payable out of said assessments and from no other fund, as provided by section 27, Article XV, of the Act of Assembly, approved May 23, 1889, entitled "An act providing for the incorporation and government of cities of the third class," and the amendments and supplements thereto and this ordinance, and shall be denominated "Improvement Bonds"; and said bonds shall be called in and redeemed by the city treasurer whenever the amount necessary accumulates in the city treasury from said assessments. It shall be the duty of the city treasurer to advertise each call of bonds in the order in which said bonds were issued, giving the numbers and the amounts thereof, in two newspapers of the city for ten days, and to send written notice of said call by mail to the registered owners of said bonds; interest on all bonds called in shall cease at the date fixed in the call for their payment. Id., §2.

**Proceedings for paving and curbing where there is no petition.**

30. That after the passage and approval of all ordinances without petition for the paving and curbing of any public highway of the city, the costs and expenses whereof shall be assessed according to the foot front rule, the city engineer shall prepare specifications for such paving and curbing, setting forth all information, conditions and stipulations necessary for the proper performance of the work authorized, which specifications shall be exhibited in the office of the highway commissioner during the time bids are advertised for. He shall give notice by said specifications that the contractor or contractors shall be paid the cost of paving and curbing the highways from amounts to be collected by the city treasurer from the property owners whose land fronts or abuts on said highway between the points authorized, and that the City of Harrisburg shall under no circumstances be held responsible for the payment of any part of the cost of said improvement, except as to the cost of paving intersections of streets and alleys, the paving and curbing in front of properties exempt by law from the payment of such improvements, and the amounts actually received from the assessments by the city treasurer. which specifications shall be submitted to councils for their approval. The highway commissioner immediately after the approval of the said specifications shall advertise for sealed proposals for the paving and curbing of said highways for at least ten days in the two official newspapers of the city; proposals to be invited for paving with the materials authorized in any such ordinance; and he shall file a schedule of said proposals in the office of the city clerk for publication immediately thereafter in the two official newspapers of the city three times within a period of thirty days. At the expiration of said thirty days, he shall enter into contracts with the contractor or contractors for the paving and curbing that may be authorized by councils, and he shall require the contractor or contractors to enter into and acknowledge a bond with at least two sureties or some reliable surety company, in a

sum equal to twenty per centum of the consideration of such contract, conditioned for the faithful performance of all the terms and conditions of the said contract, which bond shall be approved by the city solicitor. The highway commissioner shall superintend the work done under the contract and see that the same is properly performed. The city engineer shall make estimates from time to time when not less than one block is completed, to the satisfaction of the highway commissioner, who shall draw a warrant for such amount, if so much or more shall have been paid into the city treasury upon the assessments upon the properties for such paving and curbing, and when the work is finally completed, a final estimate shall be given upon the approval of the work by the highway commissioner. The assessments for the paving and curbing of said highways shall be made by the city engineer at the completion of the improvement in each highway, by apportioning the entire cost of paving each highway separately, except intersections as aforesaid, the cost and expense of paving and curbing in front of non-assessable properties, and the space occupied by the tracks of any street railway or traction company and nine inches on the outside thereof, among all the properties fronting along both sides of said highways between the points authorized to be paved, in proportion to the number of feet each property fronts upon said highway, and the actual cost of curbing or dressing and resetting curbing to the properties respectively, first giving at least five days' notice of the time and place of making the assessments, as provided by law; and the city engineer shall certify said assessments to the city treasurer within thirty days after the completion of the improvement, and the city treasurer shall give at least ten days' written notice to all the parties so assessed that said assessments shall be payable in ten equal installments, the first of which shall be due and payable at the expiration of sixty days after the completion of the work; the second installment shall be due and payable one year thereafter; the third installment two years thereafter; the fourth installment three years thereafter; the fifth installment four years thereafter; the sixth installment five years thereafter; the seventh installment six years thereafter; the eighth installment seven years thereafter; the ninth installment eight years thereafter, and the tenth installment nine years thereafter. Within three months after the completion of the work, the city treasurer shall certify to the city solicitor the names of the owners, if known, together with a full description of the properties against which assessments have been made under any ordinance and which remain unpaid, either in whole or in part, and the city solicitor shall enter liens for the said unpaid assessments, and shall from time to time proceed to collect the said assessments or the part thereof remaining unpaid according to law, and all accrued interest and penalties imposed by law. At the expiration of three months after the completion of the work, and its approval and acceptance by the highway commissioner, the mayor, city treas-

urer and controller, constituting the sinking fund commissioners, shall make and issue to the contractor improvement bonds in the usual and proper form, with coupons attached for the amounts of the assessments outstanding, which bonds and all transfers thereof shall be registered at the city depository, and shall be issued in denominations of one hundred dollars, two hundred dollars, five hundred dollars or one thousand dollars, be numbered seriatim, and shall express upon their face that they bear interest at the rate of four per centum per annum, payable semi-annually; that the principal and interest rest alone upon and are payable out of said assessments and from no other fund, as provided by section 27, Article XV, of the Act of Assembly, approved May 23, 1889, entitled "An act providing for the incorporation and government of cities of the third class," and the amendments and supplements thereto and this ordinance, and shall be denominated "Improvement Bonds"; and said bonds shall be called in and redeemed by the city treasurer whenever the amount necessary accumulates in the city treasury from said assessments. It shall be the duty of the city treasurer to advertise each call of bonds in the order in which said bonds were issued, giving the numbers and the amounts thereof, in two newspapers of the city, for ten days, and to send written notice of said call by mail to the registered owners of said bonds; interest on all bonds called in shall cease at the date fixed in the call for their payment. Id., §3.

**Proper guards; Red lights at night.**

31. That contractors and all other persons placing material<sup>1</sup> on the highways or making excavations therein shall maintain proper guards about said material or excavation and place a sufficient number of red lights thereon to warn the public at night; and any person neglecting or failing so to do shall, upon conviction thereof before the mayor or any alderman of the city, be sentenced to pay a fine of not more than one hundred dollars (\$100), at the discretion of the magistrate hearing the complaint, and in default of the payment of said fine and the costs of prosecution, shall be imprisoned in the jail of Dauphin county for a period not exceeding thirty (30) days. 9 June, 1905. D, 349, §1.

**Repeal.**

32. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed. Id., §3.

<sup>1</sup> See Buildings, 68.

**NOTE.**

The original plan of Harrisburg is recorded in Deed Book Y, Vol. 1. The first general ordinance fixing the width of streets and alleys and the pavements therein was passed 9 July, 1842, B. O. 185.

The 39th and 40th sections of the Act of 19 March, 1860, P. L. 175, relating to width of streets, &c., are as follows:

SECTION 39. That the several streets, lanes and alleys now existing and being within the said city,

shall be of the width laid out originally by the proprietors of the ground, or according to law, as they have been heretofore established and recorded for the borough of Harrisburg, namely: Paxton street, Second street and Market street, shall each be eighty feet wide; Meadow lane, from Second to Market street, shall be thirty-three feet wide; Vine street, forty feet wide; Front street, extended below Paxton street, forty-five feet wide; Mulberry street, Chestnut street, Walnut street, Locust street, Pine street, Third street, to Meadow



lane, Fifth street, Sixth street, High street, in the rear of the arsenal, and Short street, shall each be fifty-two and a half feet wide; State street, in front and rear of the capitol, one hundred and twenty feet wide; High or Fourth street, in the rear of the capitol, North street, Spruce and Filbert street, each sixty feet wide; Canal street, below North street, including the twenty feet given to public use by lot holders, to be fifty-three feet wide; South street, in the rear of the public grounds, forty feet and six inches at High street, and thirty-eight feet at Poplar lane; South street, in front of the public grounds, Third street, from South to North street, each sixty feet wide; the streets on the east, north and west of the reservoir grounds, shall be forty feet wide; Third street, extending from North street to the road from Hammon's to the canal, shall be sixty feet wide; Washington avenue, from Second to Front street, fifty-five feet wide; Liberty street, thirty feet wide; Myrtle alley, Willow alley, Spring alley, Church alley, Chestnut alley, Cedar alley, Buttonwood alley, West alley, Poplar lane, Tanner's lane, Barbara alley, Cranberry alley, Strawberry alley, Blackberry alley, Cherry alley, Mary's alley, River alley, Raspberry alley, Dewberry alley, Huckleberry alley, Love lane, and the alleys from Fourth street and from Market street, to the English and German burying grounds, each twenty feet wide; North alley seventeen feet wide, and South alley fourteen feet wide; Canal street, from Market to Walnut, shall be feet wide.

**SECTION 40.** That Water street, running from the west end of State street to the water house, and thence extending up the river the several courses and distances as laid down upon the draft on file in the office of the court of quarter sessions of the county of Dauphin, to intersect Second street, shall be thirty-three feet wide; and that the corporation may occupy so much of said street as is necessary for the erection of their wharf to lay their coal upon, to carry on the water works for the supplying the city with water, without being amenable as trespassers for obstructing any part of said street.

**Aberdeen (Av.)<sup>1</sup>.** (See Huckleberry Al.)

Paved and curbed from Market to Walnut St., 24 Jan., 1903, C, 474.

**Academy (Av.) Al.**

Paved and curbed from Front St. to Shanklin Al., 24 Jan., 1903, C, 474.

**Adams (Av.) Al.**

Paved and curbed from State to Liberty St., 24 Jan., 1903, C, 474.

**Agate.**

*Sewer*, 18 Dec., 1905, D, 459.

**Albert.**

Graded from Thirteenth to Fourteenth St., 10 Aug., 1905, D, 403.

**Allison.**

*Sewer*, 30 Dec., 1904, D, 230.

**Angle Al.**

Paved and curbed from Short St. to Curtis Al., 24 Jan., 1903, C, 474, and width regulated 28 Dec., 1904, D, 228. *Sewer*, 12 May, 1904, D, 90.

**Ann (Av.) Al.**

Placed upon official plan, 29 Feb., 1884, 2, 102. Graded from Shower's Av. to P. R. R., 28 Nov., 1887, 4, 187.

**Apple (Av.).**

*Sewer*, 5 Sept., 1879, 3, 228, 233.

**Arch.**

Vacated from Cameron St. to Susquehanna river, 11 July, 1889, 2, 279.

**Argyle.**

Placed on official plan, 27 Feb., 1900, B, 593. *Sewer*, 14 Feb., 1901, B, 777.

**Ash (Av.).**

Opened, graded and curbed from Forster to Boas St., 1 Feb., 1875, 2, 24;\* vacated from Cameron to Thirteenth St., 15 Aug., 1893, A, 382. *Sewer*, 12 Sept., 1892, A, 122.

**Aspen.**

Vacated from Cameron to Fourteenth St., 15 Aug., 1893, A, 382.

**Asper.**

Vacated from North St. to Paxton creek, 24 Dec., 1884, 2, 110.

**Atlas (Av.).**

Placed on official plan, 12 Oct., 1897, B, 305; opened from Woodbine to Maclay St., 22 July, 1901, C, 77, and graded, 22 Dec., 1904, D, 207. *Sewer*, 19 Jan., 1906, D, 474.

**Austin (Av.).**

Placed on official plan, 20 Nov., 1900, B, 742.

**Back Al.** (See Sixth St.)

Width fixed, 9 July, 1842, B. O. 185; opened and called Sixth St., by order of court, 1844; see Road Docket, p. 325.

**Bailey.**

Graded from Twelfth to Thirteenth St., 27 May, 1876, 2, 48, and from Thirteenth to Fourteenth St., 9 July, 1883, 3, 515; grass plots, 22 June, 1906, D, 646. *Sewer*, 18 Sept., 1886, 4, 114.

**Balm.**

Opened, graded and curbed from Bailey to Walnut St., 18 Feb., 1876, 2, 36. *Sewers*, 12 Sept., 1889, 4, 363, and 13 March, 1893, A, 252.

**Barbara (Av.).** (Originally Barberry.)

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from Front to South St., 24 Jan., 1903, see 474. *Sewer*, 12 May, 1904, D, 90.

<sup>1</sup> ("Av.") after the name of a street indicates that it was formerly an avenue.

**Bartine (Av.).**  
Extended to Calder St., 12 July, 1889, 2, 280. *Sewers*, 18 July, 1890, 4, 453; 17 Jan., 1902, C, 157 and 12 May, 1904, D, 90.

**Basin (Av.).**  
Opened, graded and curbed from Second to Penn St., 7 July, 1866, 1, 226; ditto from Sixth to Fulton St., 4 April, 1870, 1, 420; vacated from Third to Fulton St., 14 Nov., 1882, 3, 440; repealed, 22 March, 1887, 2, 187; opened from Susquehanna to Third St., 26 Jan., 1882, 3, 408; ditto from Sixth to Wallace St., 8 Oct., 1883, 3, 545; ditto from Wallace to Seventh St., 9 June, 1884, 3, 591; lines established between Fulton and Sixth Sts., 15 March, 1890, 2, 338. *Sewers*, 1 Nov., 1886, 2, 153, and 16 April, 1887, 2, 218.

**Berryhill.**  
Opened, graded and curbed from Eleventh to Crescent St., 11 Dec., 1874, 3, 115, and graded 14 June, 1883, 3, 490; opened from Eleventh to Fourteenth St., 17 Sept., 1888, 1, 98; graded from Sixteenth St. to eastern city limits, 1 Oct., 1899, B, 545. *Sewers*, 2 Jan., 1893, A, 200; 28 Nov., 1900, B, 745; 1 April, 1905, D, 319; 19 July, 1906, D, 661.

**Blackberry (Av.).**  
Curbed, &c., from Front to Fourth St., 14 July, 1832, B. O. 143; width fixed, 9 July, 1842, B. O. 185; construction of vault at corner of Third St. authorized, 4 Sept., 1869, 1, 404. As to pavements, see Res., 27 March, 1900. Paved and curbed from Front St. to River Av., and from Second St. to Grace Av., 24 Jan., 1903, C, 474. *Sewers*, 12 April, 1884, C, 582, and 12 May, 1904, D, 90.

**Blank Av.**  
*Sewer*, Res., 9 Nov., 1898.

**Bluebird (Av.).**  
Vacated from Cameron to Thirtieth St., 15 Aug., 1893, A, 382.

**Boas.**  
Opened, graded and curbed from Seventh to Front St., 8 April, 1865, 1, 194; between Third and Sixth Sts., 2 June, 1866, 1, 252; from Third St. to Millerstown turnpike, 6 July, 1867, 1, 321; from Front to Second St., 18 Feb., 1876, 3, 150; changed, relocated and straightened from Paxton creek to Twelfth St., 15 Nov., 1884, 3, 625; grass plots, 25 July, 1906, D, 667. *Sewers*, 3 June, 1865, 1, 203; 14 July, 1866, 1, 274; 3 Nov., 1866, 1, 292; 16 Aug., 1881, 3, 370; March 31, 1897, B, 216; Res., 17 June, 1899; 28 July, 1906, D, 680.

**Bombaugh (Av.).**  
Permission to grade, Res., 13 May, 1902.

**Boyd (Av.), now Boyd Place.**  
Placed upon official plan, 27 Aug., 1892, A, 109; graded from Wallace to Seventeenth St., 20 Nov., 1895, A, 739; vacated from Second to Front St., 17 June, 1896, B, 85; name changed, 19 Jan., 1906, D, 480.

*Sewers*, 14 July 1887, 2, 220; 30 Jan., 1900, B, 572.

**Brady (Av.).**  
Graded from Bailey to Walnut St., 30 March, 1895, A, 663, and from State to Walnut St., 11 Nov., 1902, C, 405.

**Brensinger (Av.).**  
Placed on official plan, 12 Oct., 1897, B, 305 (bis). *Sewers*, 3 July, 1897, B, 230; 9 July, 1897, B, 240, and 28 July, 1906, D, 680.

**Briggs.**  
Opened, graded and curbed from Second to Third St., 7 May, 1864, 1, 157; from Third St. to Basin Al. (Elder St.), 6 May, 1865, 1, 200; between Seventh and Cowden Sts., 3 April, 1869, 1, 386, and from Front to Second St., 18 Feb., 1876, 3, 150; graded from Second to Elder St., 14 July, 1866, 1, 276; vacated from Paxton creek to Twelfth St., 15 Nov., 1884, 3, 625; graded from Elder to East St., 17 June, 1887, 4, 151; grass plots, 22 June, 1906, D, 626. *Sewers*, 14 Oct., 1886, 2, 171; 6 July, 1887, 4, 156; 7 March, 1906, D, 509, and two 28 July, 1906, D, 680.

**Broad (see Verbeke).**  
Permission for cable ferry wire, Res. 17 June, 1899.

**Brown (Av.).**  
*Sewer*, 9 June, 1863, A, 320.

**Buckthorn (Av.).**  
Vacated from Derry St. to a point 114.5 ft. south thereof, 10 Feb., 1890, 4, 391.

**Buttonwood (Av.).**  
Width fixed, 9 July, 1842, B. O. 185; paved and curbed from State to North St., 24 Jan., 1903, C, 474. *Sewer*, 12 May, 1904, D, 90.

**Calamus (Av.).**  
Graded from Linden to Thirteenth St., 15 June, 1895, A, 705.

**Calder, formerly Colder.**  
Opened, graded and curbed from Front to Seventh St., 7 July, 1866, 1, 270; opened from Eleventh to Twelfth St., 27 May, 1891, 4, 515; spelling changed, 22 Jan., 1895, A, 615; see also 27 Sept., 1889, 2, 295. *Sewers*, 5 Aug., 1871, 1, 474; 7 Oct., 1871, 1, 499; 9 Dec., 1871, 1, 520; 7 April, 1873, 1, 609; 9 July, 1896, B, 88; Res., 15 June, 1900.

**Cameron (see Eleventh).**  
Culvert across, Res., 15 March, 1888, 2, 258; graded from Mulberry to Paxton St., 2 Dec., 1887, 4, 197; from Verbeke to Maclay St., 23 Feb., 1888, 4, 223, and 30 Aug., 1889, 4, 343, and 24 Jan., 1890, 4, 435; opened from Paxton St. to southern city limits, 19 March, 1889, 4, 282; graded from Paxton to Manada St., 11 Dec., 1890, 4, 485; line changed and a portion vacated, 13 Feb., 1893, A, 221; graded from Paxton to Hanover St., 2 Dec., 1893, A, 425; line changed and vacated from Cedar to Burch St., 23 Oct., 1896, B, 124; width fixed from Hanover to Cedar St., 12 July, 1906, D, 660; opened, graded and line changed from Hanover to Cedar St.,

16 Nov., 1904, D, 183; canal bed on, between Hanover and Cedar Sts., to be filled, 19 Jan., 1906, D, 472. *Sewers*, see Sewer District No. 8; 2 Jan., 1893, A, 200; 12 March, 1904, D, 42; 30 Dec., 1904, D, 230; 7 July, 1905, D, 361, and four, 28 July, 1906, D, 680.

#### Camp.

Placed on official plan, 12 Oct., 1897, B, 305. *Sewers*, 9 March, 1906, D, 517; 28 July, 1906, D, 680.

#### Canal.

Width fixed, &c., 9 July, 1842, B. O. 185.

#### Capital (see Elder).

Paved and curbed from North to Verbeke St., 24 Jan., 1903, C, 474. *Sewer*, 12 May, 1904, D, 90.

#### Carnation (Av.).

Placed on official plan, 28 Nov., 1900, B, 742.

#### Catherine.

Placed on official plan from Fifteenth to Eighteenth St., 8 Jan., 1900, B, 566; amended 19 March, 1900, B, 636. *Sewer*, 14 Feb., 1901, B, 777.

#### Cedar (Av.).

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from Liberty to North St., 24 Jan., 1903, C, 474. *Sewer*, 12 May, 1904, D, 90.

#### Cedar.

Opened from South Front to Cameron St., 13 March, 1893, A, 263, and from Cameron St. to within fifty feet of present boundary of Pennsylvania Railroad Company, 10 July, 1903, C, 593, and graded 10 July, 1903, C, 599.

#### Centre Al.

Lines defined and placed on official plan, 22 Jan., 1895, A, 631.

#### Cherry (Av.).

Curbed, &c., from Front to Third St., 14 July, 1832, B. O. 143; width fixed, 9 July, 1842, B. O. 185; paved and curbed from Front St. to Court Av., and from 105 feet west of Third St. to Meadow lane, 24 Jan., 1903, C, 474. *Sewers*, 8 Oct., 1892, A, 127; 10 Aug., 1893, A, 373; 12 May, 1904, D, 90.

#### Chestnut Al.

Width fixed, 9 July, 1842, B. O. 185.

#### Chestnut.

General grade fixed, 29 July, 1796. B. O. 13; curbed, &c., from Front to Third St., 25 April, 1810, B. O. 55, and from Third to Fourth St., 6 July, 1822, B. O. 112; 23 Oct., 1827, B. O. 131; width fixed, 9 July, 1842, B. O. 185; opened, graded and curbed from Pennsylvania canal to Eleventh St., 7 May, 1864, 1, 153; vacated from property of the P. & R. R. Company to Eleventh St., 14 Nov., 1884, 3, 637; placed on official plan and opened, 31 Oct., 1889, 4, 432; cancelled from Cameron to Crescent St., 31 July, 1897, B, 284; vacated from western terminus at line of property of P. & R. R. Co., to a point 137 feet west of western line of Tenth St., 20 Nov., 1901, C, 130; paved and curbed from

Front St. to Grace Av., 24 Jan., 1903, 4, 74. *Sewers*, 1 Aug., 1832, B. O. 134; 5 May, 1866, 1, 243; 18 May, 1896, B, 35; 20 Oct., 1902, C, 363.

#### Christian.

Graded from Summit to Crescent St., 13 Oct., 1887, 4, 179; opened and graded 75 feet eastwardly from Crescent St., 25 Aug., 1897, B, 292. *Sewer*, 24 Aug., 1889, 4, 341.

#### Christiana.

Placed on official plan, 2 July, 1887, 4, 155; opened from Eleventh to Hancock St., 16 July, 1887, 4, 165.

#### Church (Av.).

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from State to North St., 24 Jan., 1903, C, 474. *Sewer*, 12 May, 1904, D, 90.

#### Clinton (Av.).

Graded from Wallace to Seventh St., 2 March, 1894, A, 456, and 19 Dec., 1895, A, 753.

#### Clover Al.

*Sewer*, 28 July, 1906, D, 680.

#### Compass (Av.) Al.

Graded from Sixteenth to Daisy St., 10 Aug., 1905, D, 403. *Sewers*, 12 July, 1897, B, 245; 22 July, 1901, C, 73.

#### Conoy.

*Sewer* extended to low-water mark, 31 March, 1897, B, 216; Res., 13 Oct., 1899.

#### Court (Av.). See Raspberry.

Named, 1 Feb., 1833, 3, 469; sidewalk widened between Walnut and Locust St., 17 Jan., 1887, 2, 178; paved and curbed from Market to Walnut St., 27 Aug., 1890, 2, 377; paved and curbed from Market to Walnut St., 8 March, 1902, C, 198; paved and curbed from Pennsylvania R. R. to Mulberry St., and from Chestnut to Market St., and from Walnut to South St., 24 Jan., 1903, C, 474; abolished from Walnut to Locust St., and Federal Square substituted, 14 July, 1905, D, 368. *Sewers*, 31 March, 1903, C, 510; 12 May, 1904, D, 90.

#### Cowden.

Opened, graded and curbed from North to Boas St., 23 Jan., 1865, 1, 187; from South to North St., 22 July, 1865, 1, 216; changed to conform with subway at Market St., 12 June, 1901, C, 52; paved and curbed from Pennsylvania R. R. to Foster St., 24 Jan., 1903, C, 474. *Sewers*, 3 June, 1865, 1, 203; 1 Aug., 1868, 1, 358; 13 Aug., 1873, 3, 9; 20 March, 1888, 3, 271; 4 Oct., 1886, 4, 124; 28 July, 1906, D, 680.

#### Cox (Av.).

Opened, graded and curbed from Second St. to Raspberry Al., 8 Nov., 1866, 1, 297.

#### Crabapple Av.

Name changed to Park St., from Sixteenth St. to eastern city limits, 17 Jan., 1896, B, 12.

#### Cranberry (Av.).

Curbed, &c., 14 July, 1832, B. O. 143; width fixed, 9 July, 1842, B. O.

185; paved and curbed from Fourth to Short St., 15 July, 1902, C, 299, and from Front to Third St., 24 Jan., 1903, C, 474. *Sewers*, Res., 9 Sept., 1898; 6 July, 1903, C, 583; 12 May, 1904, D, 90.

**Cream (Av.) Al.**

*Sewer*, 30 Aug., 1901, C, 84.

**Crescent.**

Opened, graded and curbed from Eleventh to Berryhill St., 11 Dec., 1863, 1, 134; graded from Eleventh to Mulberry St., 24 June, 1865, 1, 210; also 1, 299; opened, graded and curbed from Derry to Berryhill St., 11 Dec., 1874, 3, 116; graded from Mulberry to Berryhill St., 14 June, 1883, 3, 490, and from Mulberry to Kittatinny St., 18 Aug., 1884, 3, 603, and from Swatara to Kittatinny St., 17 March, 1888, 4, 244; also 2 March, 1894, A, 460; lines changed from Mulberry to Derry St., width fixed and a portion vacated, 3 July, 1889, 4, 329; opening authorized, as provided in ordinance 10 March, 1890, 2, 336; graded from Mulberry to Derry St., 27 Dec., 1893, A, 488; graded from Swatara to Berryhill St., 10 Aug., 1893, A, 378; lines changed from Mulberry to Derry St., 3 July, 1889, 4, 329; opened and graded from Mulberry to Derry St., 25 Aug., 1897, B, 292; vacated from Mulberry to Derry St., 25 Aug., 1897, B, 292; location changed, opened and graded from Mulberry to Derry St., 2 Feb., 1898, B, 345; name changed to Sylvan Terrace between Derry and Mulberry Sts., 1 Aug., 1901, C, 380. *Sewers*, 26 March, 1894, A, 483; 29 Sept., 1894, A, 553. Private, Res., 12 Oct., 1897.

**Crooked (Av.).**

*Sewer*, 17 March, 1888, 4, 240.

**Cumberland.**

Opened, graded and curbed from Seventh to Eighth St., 12 May, 1863, 1, 118, and from Third to Fourth St., 7 July, 1866, 1, 265; opened from Eighth to Twelfth St., 17 Jan., 1881, 3, 317; graded from Paxton creek to Fifteenth St., 22 Jan., 1895, A, 626. *Sewers*, 8 Nov., 1866, 1, 298; 7 Sept., 1867, 1, 324; 9 May, 1878, 3, 210; 5 Sept., 1879, 3, 227; 12 Sept., 1884, 3, 615; 17 Jan., 1902, C, 157. Right-of-way Res., 4 June, 1902; 12 May, 1904, D, 90.

**Currant (Av.).**

Opened, graded and curbed from Herr St. to Basin Al., 2 Oct., 1869, 1, 406; opened from Herr to Verbeke St., 2 Sept., 1871, 1, 482; 10 July, 1872, 1, 557; 3 Oct., 1872, 1, 575. *Sewers*, 1 July, 1865, 1, 211; 5 Oct., 1867, 1, 328; amended 1 Aug., 1868, 1, 359; 13 Aug., 1873, 3, 12; 2 Dec., 1879, 3, 244; 14 Nov., 1882, 3, 449; 28 July, 1906, D, 680.

**Curtin.**

Placed on official plan, 12 Oct., 1897, B, 305; opened and graded from Fifth to Sixth St., 8 Aug., 1904, D, 119, and graded from Sixth to Seventh St., 10 Aug., 1905, D, 403. *Sewers*, 1 Nov., 1901, C, 117; 24 Feb., 1905, D, 255; 28 July, 1906, D, 680.

**Curtis Al.**

Paved and curbed from Angle Al. to South St., 24 Jan., 1903, C, 474; width regulated, 28 Dec., 1904, D, 228. *Sewer*, 12 May, 1904, D, 90.

**Dauphin (Av.).**

Graded from Fifth to Fourth St., 13 Nov., 1885, 4, 65; vacated from George St., 21 July, 1893, A, 343; cancelled from Second to Front St., 14 July, 1897, B, 288.

**Delaware (Av.).**

Opened from Front to Third St., 4 Oct., 1883, 2, 94, and from Third St. to Logan Av., 29 June, 1881, 3, 363, and graded from Sixth to Fourth St., 13 Nov., 1885, 4, 75, and from Fourth to Front St., 2 Nov., 1889, 4, 335. *Sewer*, 8 July, 1890, 2, 351. See Sewer District No. 7.

**Derry.**

Opened, graded and curbed from Crescent St. to eastern boundary of the city, 16 Nov., 1874, 2, 9, and from Eleventh St. to eastern boundary, 11 Dec., 1874, 3, 112; graded from Thirteenth to Seventeenth St., 31 March, 1887, 2, 192; opened, graded and curbed from Derry St. to eastern limit, 18 Feb., 1876, 3, 153; sidewalks to be laid, 12 Sept., 1878, 3, 212; opened from Thirteenth St. to eastern line of city, 29 April, 1887, 4, 145; paved and curbed from Summit St. to eastern city line, 24 Jan., 1903, C, 474; triangular lot at Derry and Mulberry St. and Prune Av. purchased, Res., 28 Jan. and 1 April, 1903. *Sewer*, 10 March, 1890, 2, 345.

**Dewberry (Av.).**

Curbed, &c., 14 July, 1837, B. O. 103; width fixed, 9 July, 1842, B. O. 185; paved and curbed from Cumberland Valley R. R. to Walnut St., 24 Jan., 1903, C, 474. *Sewer*, 4 Nov., 1865, 1, 229.

**Division.**

Placed on official plan, 12 Oct., 1897, B, 305. *Sewer*, 18 Dec., 1905, D, 459.

**Dock.**

Opened and graded from eastern abutment of bridge over Canal to Ninth St., 3 Dec., 1887, 2, 249; laid out and opened from present eastern terminus to Tenth St. and placed on official plan, 14 Sept., 1888, 4, 263; established, 14 March, 1890, 4, 400; graded from Ninth to Tenth St., 11 Sept., 1890, 4, 467; opened from Cameron to Paxton St., 27 March, 1895, A, 651, and 23 Oct., 1896, B, 126; placed on official plan from Eleventh St. to eastern limits, 29 May, 1905, D, 339. *Sewer* extended to low-water mark, 14 Dec., 1897, B, 326.

**Dogwood (Av.).**

Vacated from Cameron to Thirteenth St., 15 Aug., 1893, A, 382.

**Dubbs (Av.) Al.**

Width regulated, 25 July, 1906, D, 660. *Sewer*, 14 Oct., 1873, 3, 25.

**East Al.**

Width fixed, 9 July, 1842, B. O. 1, 85.

**East Liberty.** See Juniper.

**Eighteenth.**

Opened, graded and curbed from Herr to State St., 16 Nov., 1874, 2, 18; graded from Market to Holly St., 4 June, 1896, B, 59; opened from Brookwood to Paxton St., 1 Dec., 1899, B, 558, and from Walnut to Herr St., 7 March, 1900, B, 610; graded from State to Herr St., 9 Sept., 1905, D, 409; grass plots, 23 March, 1906, D, 535. *Sewers*, 1 April, 1905, D, 319; 28 July, 1906, D, 680.

**Eighth.**

Vacated from North to Maclay St., 1 Dec., 1900, B, 753.

**Elder, now Capital.**

Graded from Forster to Verbeke St., 3 Nov., 1886, 1, 295; line changed from Boas St., &c., 18 Sept., 1886, 4, 113; name changed, 6 Nov., 1893, A, 411. *Sewers*, 12 May, 1886, 1, 244; 27 April, 1880, 3, 280; 16 March, 1881, 3, 334.

**Eleven-and-one-half.**

Opened from Verbeke to Reilly St., 24 Feb., 1886, 4, 92, and placed on official plan, 24 Feb., 1886, 4, 93.

**Eleventh, now Cameron.**

Opened, graded and curbed from Hanna to Maclay St., 7 July, 1886, 1, 266; name changed, 17 Aug., 1887, 2, 225; certain alley extending from, vacated, 1883, 2, 91; graded from Market to Paxton St., 14 June, 1883, 4, 90; placed on official plan between Harris and Hamilton Sts., and between Dauphin Av. and Maclay St., 24 Aug., 1889, 4, 334.

**Elizabeth (Av.).**

Opened from Hamilton to Muench St., 7 Oct., 1871, 1, 497; name of part from Reilly to Hamilton St. changed to Wallace St., 31 Dec., 1883, 2, 101; placed on official plan from Reilly to Hamilton St., 21 July, 1884, 2, 106; graded from Hamilton to Kelker St., 3 Oct., 1893, A, 385; placed on official plan, 20 feet wide, 13 Nov., 1900, B, 721; placed on official plan from Oil Av. to Curtin St., 1 Dec., 1902, C, 430. *Sewers*, 8 July, 1890, 2, 351; 13 Nov., 1903, C, 685, and two, 28 July, 1906, D, 680.

**Ellis (Av.).**

Graded from Fourteenth to Seventeenth St., 10 Aug., 1905, D, 403. *Sewers*, 13 Nov., 1900, B, 716; 19 July, 1906, D, 662.

**Elm (Av.).**

Opened, graded and curbed from Ninth to Eleventh St., 16 Nov., 1874, 2, 14; vacated from Tenth to Eleventh St., 5 Oct., 1875, 2, 31; line changed between Ninth and Tenth Sts., 28 March, 1877, 3, 184; graded from Juniper to Eighteenth St., 15 June, 1895, A, 700. *Sewers*, 23 Oct., 1896, B, 116; 13 Nov., 1905, D, 441; 10 July, 1906, D, 656.

**Emerald.**

Graded from Fifth to Sixth St., 23 Oct., 1896, B, 120. *Sewers*, two, 28 July, 1906, D, 680.

**Ethel (Av.).**

Placed on official plan, 28 Nov., 1900, B, 742.

**Evergreen.**

Opened from Market St. to Thompson Av., 22 Oct., 1889, 2, 317; placed on official plan from Thompson Av. to Derry St., 6 March, 1894, A, 467, and opened, 23 Oct., 1896, B, 114; graded from Market St., &c., 10 March, 1890, 4, 409.

**Fahnestock (Av.) AL.**

Paved between Walnut St. and Strawberry Av., 4 Nov., 1904, D, 142.

**Federal Square.**

Named, 14 July, 1905, D, 368.

**Fifteenth. See Fourteen-and-one-half, also Sharon.**

Opened, graded and curbed from Herr to Walnut St., 16 Nov., 1874, 2, 19; graded from Derry to Swatara St., 27 Feb., 1888, 4, 250; see also 27 Feb., 1891, 4, 491; opened from Herr to State St., 27 March, 1895, A, 653; vacated from Walnut to State St., and placed on official plan 50 ft. from Walnut to State St., 16 Nov., 1899, B, 534; grass plots, 22 June, 1906, D, 632, and 634; opened and graded from Market to Fourteenth St., 22 Oct., 1904, D, 136; placed on official plan from Market to Howard St., 1 Sept., 1900, B, 708; graded from State to Herr St., 7 Dec., 1900, B, 756; opened from Market to Fourteenth St., 22 Oct., 1902, C, 360; paved and curbed between State and Walnut Sts., 10 March, 1904, D, 44. *Sewers*, 10 March, 1890, 2, 348; 27 Feb., 1891, 4, 491; 1 April, 1905, D, 306; 28 July, 1906, D, 680.

**Fifth.**

Width fixed, 9 July, 1842, B. O. 185; lines changed and straightened from Maclay St. northwardly, 19 June, 1884, 2, 105; graded from Delaware Av. to Maclay St., 13 Nov., 1885, 4, 49; paved and curbed from Market to Walnut St. and from South to North St., 24 Jan., 1903, C, 474; graded from Maclay St. to Reel's lane, 22 Dec., 1904, D, 207, and opened, 10 Aug., 1905, D, 95. *Sewers*. See Sewer District No. 7, 14 July, 1887, 2, 220; 3 July, 1897, B, 226; 28 Aug., 1900, B, 703; 24 Feb., 1905, D, 255.

**Filbert.**

Width fixed, 9 July, 1842, B. O. 185; opened, graded and curbed from South to Walnut St., 7 May, 1864, 1, 155; paved and curbed from Walnut to Fourth St., 24 Jan., 1903, C, 474. *Sewer*, 1 Nov., 1886, 4, 130.

**Flood.**

*Sewer*, 28 July, 1906, D, 680.

**Forrest.**

Placed on official plan, 12 Oct., 1897, B, 305. *Sewer*, 24 Nov., 1905, D, 447.

**Forster.**

Opened, graded and curbed from Commerce to Front St., 7 May, 1864, 1, 154; graded from Millerstown turnpike to Sixth St., 14 July, 1866, 1, 275; opened, graded and curbed

from Front to Second St., 18 Feb., 1876, 3, 151; changed, relocated and straightened from Paxton creek to Twelfth St., 15 Nov., 1884, 3, 625; paved and curbed from Front to Sixth St., 24 Jan., 1903, C, 474. *Sewers*, 1 Aug., 1890, 4, 460; 28 July, 1900, D, 680.

#### Fort Hunter Road.

Proceedings to condemn portion in city, Res., 10 Oct., 1900.

#### Fourteenth.

Opened from Market to Regine St., 3 June, 1871, 1, 463; opened, graded and curbed from Vernon to Derry St., 11 Dec., 1874, 3, 118, and 31 March, 1887, 2, 198; graded from Market to Shoop St., 29 March, 1889, 4, 302; placed on official plan, 30 March, 1889, 4, 292; opened from Market to Zarker St., 11 Dec., 1889, 2, 320; graded from Bailey to Walnut St., 30 July, 1890, 4, 456; placed on official plan from Vernon to Fifteenth St., 20 Oct., 1902, C, 358, and opened, 20 Oct., 1902, C, 360, and 22 Oct., 1904, D, 136; grass plots, 22 June, 1906, D, 630. *Sewers*, 13 Oct., 1887, 2, 240; 1 Oct., 1886, 4, 121; 29 March, 1889, 4, 299 and 354; 1 Jan., 1903, C, 445; 17 Jan., 1903, C, 457; 1 April, 1905, D, 308; 28 July, 1906, D, 680.

#### Fourteen-and-a-half.

Graded from Walnut to Regine St., 30 March, 1889, 4, 306; name changed to Fifteenth St. from Walnut St. to Crabapple Av., 10 Feb., 1890, 4, 392; Vacated from Walnut to State St., 16 Nov., 1899, B, 534; placed on official plan, from Berryhill to Argyle St., 27 Feb., 1900, B, 593. *Sewer*, 29 March, 1889, 4, 299.

#### Fourth.

Extended by order of court from Walnut to High St., 1840 Road Docket, 220; width fixed, 9 July, 1842, B. O. 185; width of alley from, fixed, 9 July, 1842, B. O. 185; graded from Kelker to Maclay St., 13 Nov., 1885, 4, 45; paved and curbed from northern curb line of Chestnut St. to North St., 15 March, 1880, 2, 339; paved and curbed from northern curb line of Chestnut St. to southern curb line of Reily St., 13 Aug., 1890, 2, 370; opened from Maclay St. to 400 feet north of Woodbine St., 10 Feb., 1898, B, 350; opened and graded from Woodbine to Seneca St., 8 Aug., 1904, D, 119; paved and curbed from Reily to Maclay St., 10 Aug., 1905, D, 384. *Sewers*, 28 Sept., 1883, 2, 95; 23 Sept., 1873, 3, 18; 31 Jan., 1880, 3, 59; 27 Aug., 1880, 2, 96; 16 March, 1881, 3, 29; 28 Sept., 1883, 2, 95; 4 April, 1891, 4, 507; 28 March, 1889, B, 484; 12 May, 1896, B, 39; 31 March, 1897, B, 218; 28 July, 1906, D, 680. See Sewer District 7.

#### Fox (Av.).

*Sewers*, 9 March, 1874, 3, 69; 29 Nov., 1879, 3, 236; 14 Nov., 1882, 3, 453.

#### Fridley (Av.) Al., now Singer Av.

Name changed, 18 Feb., 1876, 3, 157; paved and curbed from Chestnut

St. to Cherry Av., 24 Jan., 1903, C, 474.

#### Front.

Turnpike, 19 May, 1824, B. O. 120; curbed, &c., from Walnut St. to Harris's Al., 25 April, 1810, B. O. 55, and from Pine to Walnut St., 6 July, 1822, B. O. 112, and 23 Oct., 1827, B. O. 131, and from Harris's Al. to Paxton St., 23 Oct., 1827, B. O. 131; lots laid out between street and river to be rented, 10 Jan., 1814, B. O. 78; width of, extended, fixed, &c., 9 July, 1842, B. O. 1, 85; grade fixed of portion, 2 May, 1863, 1, 116; opened, graded and curbed from Paxton to Hanna St., 6 July, 1864, 1, 169; width for certain purposes from Paxton to State St., 1 Oct., 1864, 1, 177; opened, &c., from Calder to Harris St., 6 Sept., 1865, 1, 225; from North to Herr St., 1 Dec., 1866, 1, 301, and 16 Nov., 1874, 2, 22; lines changed from Harris to Maclay St., 29 March, 1889, 4, 330, and 21 Aug., 1903, C, 651; lines changed from Iron Av. south, 5 Feb., 1892, A, 14, and opened 13 March, 1893, A, 261; opened from Calder to Maclay St., 21 Sept., 1897, B, 299; grass plots, &c., 11 July, 1904, D, 102, and 22 June, 1906, D, 650; paved and curbed from Vine to State St., 26 Jan., 1905, D, 245. *Sewers*, 5 Aug., 1871, 1, 474; 3 Feb., 1872, 1, 525; 13 Nov., 1886, 2, 159; 16 March, 1881, 3, 326; 31 May, 1883, 3, 485; 25 May, 1881, 3, 344; 28 July, 1906, D, 680.

#### Fulton.

Widened at Verbeke St., 4 Feb., 1888, 2, 255, and placed on official plan, 17 Aug., 1888, 2, 269. *Sewers*, 11 Aug., 1879, 3, 225; 26 May, 1885, 4, 7; 10 Aug., 1893, A, 304; 29 Sept., 1894, A, 548. See Sewer District No. 7.

#### Geiger (Av.).

Graded from Sixth to Fourth St., 13 Nov., 1885, 4, 72; opened from Second to Green St., 22 Oct., 1902, C, 309. *Sewer*, 8 Oct., 1894, A, 570. See Sewer District No. 7.

#### Gooseberry, now Manada.

Name changed, 20 Jan., 1882, 2, 86.

#### Grace (Av.).

Opened, graded and curbed from Blackberry Al. to Chestnut St., 2 June, 1866, 1, 251; paved and curbed from Chestnut to Market St., 24 Jan., 1903, C, 474.

#### Grand.

Graded from Forster to Cumberland St., 3 Nov., 1866, 1, 294. *Sewers*, 29 Nov., 1879, 3, 239; 15 May, 1880, 3, 283; 31 Aug., 1880, 3, 299.

#### Granite (Av.).

Opened from Sixth to Seventh St., 23 Dec., 1891, 2, 449; 2 Aug., 1892, A, 103; vacated from Twelfth eastward to Pennsylvania State Lunatic Hospital, 21 July, 1893, A, 343; graded from Elizabeth Av. to Seventh St., 29 Sept., 1894, A, 543; vacated from Second to Front St., 17 June, 1896, B, 85.

#### Grape (Av.).

*Sewer*, 14 Jan., 1893, A, 212.

**Green, formerly Two-and-a-half.**

Opened from Reilly to Maclay St., 29 Sept., 1890, 4, 472, and from Keller to Maclay St., 1 Nov., 1901, C, 122; opened and graded from Muench to Maclay St., 27 Dec., 1904, D, 217; grass plots, 27 July, 1906, D, 675. *Sewers*, 22 March, 1892, A, 59; 16 June, 1902, C, 272; Res., 9 Nov., 1898.

**Hachnlen (Av.).**

Graded from Thirteenth to Fourteenth St., 30 Jan., 1900, B, 576, and paved and curbed, 26 Jan., 1905, D, 245.

**Hage.**

Cancelled, 25 Jan., 1891, 4, 492.

**Hamilton.**

Opened, graded and curbed from Sixth to Seventh St., 6 March, 1869, 1, 383, and 5 March, 1870, 1, 418, and graded 25 Oct., 1883, 2, 98; opened, graded and curbed from Third to Front St., 20 Nov., 1874, 3, 109, and 19 Nov., 1894, A, 583. *Sewers*, 28 Dec., 1878, 3, 217; 13 Nov., 1879, 3, 234; 27 Aug., 1880, 3, 296; 1 June, 1881, 3, 345; 17 March, 1891, 4, 498; 31 Oct., 1892, A, 153; 31 Oct., 1895, A, 730.

**Hancock.**

Placed on official plan, 2 July, 1887, 4, 155; opened from Christiana to Walnut St., 16 July, 1887, 4, 165. *Sewer*, 17 Nov., 1903, C, 691.

**Hanna Av.**

*Sewer*, 20 March, 1880, 2, 608.

**Hanna.**

Opened, graded and curbed from Race to Paxton St., 14 Dec., 1874, 2, 23. *Sewer*, 5 Aug., 1871, 1, 474.

**Hamover.**

Lines changed and placed on official plan, 23 Dec., 1886, 4, 132. *Sewers*, 8 July, 1893, A, 330; 11 July, 1900, B, 690.

**Harris's Al., now Washington (Av.).**

Width fixed, 9 July, 1842, B. O. 185.

**Harris.**

Opened, graded and curbed from Third to Front St., 20 Nov., 1874, 3, 107, and 7 March, 1891, 4, 491; vacated from Twelfth to Thirteenth St., 21 July, 1893, A, 343; paved and curbed from Third to Fourth St., 22 Dec., 1905, D, 465, and 6 July, 1906, D, 652; grass plots, 25 July, 1906, D, 670. *Sewers*, 11 July, 1882, 3, 432; 12 Dec., 1901, C, 142, and two, 28 July, 1906, D, 680.

**Hay (Av.).**

*Sewer*, 16 March, 1881, 3, 334.

**Hazel (Av.) Al.**

*Sewer*, 3 June, 1865, 1, 203.

**Helen (Av.).**

Placed on official plan, 28 Nov., 1900, B, 742.

**Hemlock.**

Opened, graded and curbed from Ninth to Eleventh St., 16 Nov., 1874, 2, 11; graded from Eleventh St. to Steelton Branch of Reading R. R., 13 Nov., 1886, 2, 163.

**Herr's Lane.**

Vacated, Res., 14 Sept., 1897.

**Herr.**

Opened, graded and curbed from Seventh to Thirteenth St., 4 March, 1865, 1, 189; repealed between Seventh and Eighth Sts., 18 March, 1865, 1, 191; opened, &c., from Front to Seventh St., 14 April, 1865, 1, 195, and from Seventh to Eighth St., 18 Aug., 1865, 1, 222, and graded from Sixth St. to Millerstown turnpike, 6 July, 1867, 1, 322; also 7 Sept., 1867, 1, 325; opened from Canal to Eleventh St., Res., 13 March, 1873, 1, 606, and from Twelfth to Eighteenth St., 6 May, 1873, 1, 618; graded from Pennsylvania Canal to Twelfth St., 17 Jan., 1877, 2, 182, and 16 Feb., 1875, 3, 135; paved and curbed from Front to Sixth St., 24 Jan., 1903, C, 474. *Sewers*, 10 Jan., 1866, 1, 235; 13 Nov., 1886, 2, 159; 30 Sept., 1887, 4, 169; 18 March, 1895, A, 649; 14 May, 1904, D, 90.

**Hickory (Av.).**

*Sewers*, 2 Sept., 1871, 1, 483; 18 Sept., 1873, 3, 16.

**High.**

Width fixed, 9 July, 1842, B. O. 185; vacated from Walnut to Fourth St., 13 March, 1873, 1, 605.

**Highland.**

*Sewer*, 12 June, 1905, D, 353.

**Hildrup.**

Placed on official plan, 28 Nov., 1900, B, 742.

**Hoerner.**

Placed on official plan from Walnut to State St., 16 Nov., 1899, B, 534.

**Holly.**

Opened from Vernon to Roberts St., 10 July, 1872, 1, 560. *Sewer*, 1 April, 1905, D, 319.

**Honey (Av.).**

Vacated from Mt. Pleasant Av. to Market St., 4 Aug., 1890, 4, 462.

**Howard (Av.).**

Placed on official plan, 12 Oct., 1897, B, 305 bis. *Sewers*, 3 July, 1897, B, 226 and 230; 9 July, 1897, B, 240; 6 Aug., 1903, 639; 24 Feb., 1905, D, 257; 28 July, 1906, D, 680.

**Howard.**

Placed on official plan, 1 Sept., 1900, B, 708. *Sewer*, 17 March, 1888, 4, 240.

**Hoyer (Av.).**

*Sewer*, 1 April, 1905, D, 308.

**Huckelberry Al., now Aberdeen.**

Width fixed, 9 July, 1842, B. O. 185; name changed, 8 July, 1875, 3, 144.

**Hummel.**

Graded from Reese Av. to Swatara St., 17 March, 1888, 4, 238. *Sewers*, Res., 8 Aug., 1871, 1, 479; 7 March, 1900, B, 605; 17 March, 1905, D, 261.

**Hunter (Av.).**

Graded from Fourteenth to Seventeenth St., 22 Jan., 1895, A, 621, and from Thirteenth to Fifteenth St., 10 Aug., 1905, D, 403.

**Indian (Av.).**

*Sewer*, 1 April, 1905, D, 308.

**Ivy (Av.).**

Placed on official plan, 13 Nov., 1900, B, 721. *Sewer*, 13 Nov., 1900, B, 724.

**James (Av.).**

*Sewers*, 7 March, 1868, 1, 338; 8 May, 1869, 1, 391; 6 July, 1869, 1, 401; 5 Aug., 1871, 1, 473; 27 Sept., 1871, 1, 487; 1 July, 1892, A, 91; 1 March, 1893, A, 235; 2 March, 1894, A, 463; 28 July, 1906, D, 680.

**Jonestown Road.**

Vacated from Balm to Linden St., 29 March, 1893, A, 298.

**Julia (Av.). See Pike Av.**

Placed on official plan, 10 Aug., 1893, A, 369.

**Juniper.**

Name changed to East Liberty St., from Thirteenth St. to Cemetery road, 2 Aug., 1892, A, 105; graded from State to Walnut St., 1 July, 1895, A, 715. *Sewer*, 23 Oct., 1896, B, 116.

**Kelker.**

Opened, graded and curbed from Third to Sixth St., 20 Nov., 1874, 3, 105; opened from Third to Front St., 7 March, 1891, 4, 488, and 16 Sept., 1896, B, 110; vacated from Twelfth St. eastward, 21 July, 1893, A, 343; graded from Sixth to Seventh St., 24 Aug., 1889, 4, 338; Res., 13 Oct., 1899. *Sewers*, 2 Sept., 1885, 4, 25; 29 March, 1900, B, 648; Res., 24 Nov., 1899.

**Kelley Al.**

Paved and curbed from Pine St. to Cranberry Av., 24 Jan., 1903, C, 474.

**Kirby Av. See Rose.**

Placed on official plan, 30 March, 1889, 4, 291.

**Kittatinny.**

Opened, graded and curbed from Eleventh St. to Prune Al., 10 July, 1866, 1, 271, and from Penn Al. to Fourteenth St., 11 Dec., 1874, 3, 113; graded from Eleventh to Hummel St., 14 June, 1883, 3, 490, and from Crescent to Derry St., 15 Nov., 1884, 3, 633; placed on official plan to east side of Tenth St., 20 Sept., 1894, A, 541; portion vacated, 25 Feb., 1891, B, 787. *Sewers*, 15 July, 1885, 4, 17; 28 July, 1906, D, 680.

**Kline Al.**

Paved and curbed from Locust St. to Cranberry Av., 24 Jan., 1903, C, 474. *Sewers*, 12 May, 1904, D, 90; 19 Jan., 1906, D, 476.

**Kunkel (Av.).**

*Sewers*, 20 March, 1880, 3, 271; 31 Aug., 1880, 3, 299; 14 March, 1891, 4, 496; 4 Nov., 1893, A, 406; 30 March, 1894, A, 493.

**Lemon (Av.).**

Placed on official plan, 12 Oct., 1897, B, 305. *Sewer*, 3 July, 1897, B, 230.

**Liberty.**

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from Front to Third St., Jan. 24, 1903, C, 474. *Sewer*, 12 May, 1904, D, 90.

**Lilac.**

*Sewer*, 27 July, 1906, D, 673.

**Linden (Av.).**

Graded from Market St. to Thompson Av., 21 July, 1893, A, 345. *Sewer*, 12 Sept., 1889, 4, 365.

**Linden.**

Opened, graded and curbed from Bailey to Walnut St., 18 Feb., 1876, 2, 36, and opened from Market St. to Thompson Av., 30 July, 1890, 4, 459; also 18 March, 1893, A, 272. *Sewer*, 13 March, 1893, A, 247.

**Locust.**

Grade fixed, 29 July, 1796, B. O. 13; curbed from Front to Third, 25 April, 1810, B. O. 55; width fixed, 9 July, 1842, B. O. 185; paved and curbed from Front to Third St., 24 Jan., 1903, C, 474; abolished from Court to Third St. and Federal Square established, 14 July, 1905, D, 368. *Sewers*, 6 May, 1873, 1, 614; 31 March, 1897, B, 216.

**Logan.**

Placed on official plan, 12 Oct., 1897, B, 305, and 20 Jan., 1906, D, 485. *Sewers*, 18 Sept., 1873, 3, 17; 28 Dec., 1878, 3, 217; 13 Nov., 1879, 3, 234; 29 Nov., 1879, 3, 241; 13 July, 1880, 3, 290; 31 Aug., 1880, 3, 299; 2 Sept., 1885, 4, 27; 22 March, 1892, A, 53; 19 Jan., 1906, D, 478. See *Sewer District No. 7*.

**Love (Av.) Al.**

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from North to Briggs St., 11 Dec., 1905, D, 434. *Sewer*, 28 July, 1906, D, 680.

**Maclay.**

Opened from Front to Fifth St., 20 Oct., 1902, C, 367; graded from Front to Third St., 22 Dec., 1904, D, 207; paved and curbed from Third to Seventh St., 26 Jan., 1905, D, 245. *Sewer*, 12 June, 1905, D, 351.

**Magnolia.**

*Sewer*, 11 Dec., 1905, D, 449.

**Mahontonga.**

*Sewer*, 7 March, 1906, D, 510.

**Manada (Av.). See Fulton Av. and Dock.**

Name changed, 28 Nov., 1887, 2, 244; graded from Kelker to Maclay St., 13 Nov., 1885, 4, 68; vacated from Fifteenth St. to eastern city line and in lieu Dock St., established 14 March, 1890, 4, 400. *Sewers*, 15 Nov., 1884, 3, 630; 10 Aug., 1893, A, 364; 17 Oct., 1894, A, 565; Repealed, 30 March, 1895, A, 655.

**Maple Av.**

*Sewer*, 16 April, 1887, 2, 213.

**Margaret (Margaretta). See Fourth.**

Name changed between Verbeke and Raily Sts., 17 Jan., 1902, C, 162. *Sewers*, 8 Nov., 1873, 3, 38; 3 Aug., 1883, 3, 519.

**Marigold (Av.) Al.**

Vacated from Cameron to Thirteenth St., 15 Aug., 1893, A, 382.



**Marion.**

*Sewers*, 15 Nov., 1875, 2, 33; 10 June, 1881, 3, 354; 14 Dec., 1889, 4, 412.

**Market Av.**

Located and placed on official plan, 15 March, 1880, 3, 264.

**Market Square.**

Filled up, 29 July, 1796, B. O. 13; turnpike, 1 Aug., 1832, B. O. 1, 44; width fixed, 31 Aug., 1810, B. O. 58, and 9 July, 1842, B. O. 185; Belgian block laid, 31 Oct., 1880, 3, 299. *Sewers*, 8 April, 1811, B. O. 59; 11 April, 1812, B. O. 62.

**Market.**

Grade fixed, 29 July, 1796, B. O. 13; curbed, &c., from Front to Fourth, 25 April, 1810, B. O. 55, and from Fourth to Fifth St., 6 July, 1822, B. O. 112; turnpike, 22 April, 1823, B. O. 114; repaired from Market Sq. to Meadow lane, 1 Aug., 1832, B. O. 144; pavement extended from Third St., 23 March, 1841, B. O. 164, and 23 Oct., 1827, B. O. 131; width fixed, 9 July, 1842, B. O. 185; opened, graded and curbed from Pennsylvania Canal to Thirteenth St., 11 Dec., 1863, 1, 133; graded from Paxton creek to Thirteenth St., 24 June, 1865, 1, 210, and 6 Oct., 1866, 1, 288; opened from Thirteenth St. to city limits, 10 Dec., 1872, 1, 593, and graded and curbed, 16 Nov., 1874, 2, 20; paved and curbed from Front to Pennsylvania R. R., 10 Aug., 1877, 2, 230, and 27 Jan., 1890, 4, 440; paved 12 March, 1881, 3, 338; opened from Thirteenth St. to city limits, 30 Aug., 1883, 3, 541, and from Thirteenth to Fourteenth St. to full width, 3 Aug., 1888, 2, 266; graded from near Seventeenth St. to western limits, 25 June, 1894, A, 576; opened full width from Thirteenth to Fourteenth St., 3 Aug., 1888, 2, 266; changed for subway, 12 June, 1901, C, 52; poles removed from part of, 10 July, 1901, C, 64; paved and curbed from Market St. subway to Cameron St., 20 Oct., 1902, C, 336, and from Cameron St. to eastern city limits, 24 Jan., 1903, C, 474; grade of portion near Tenth St. changed, 21 Aug., 1903, C, 656. *Sewers*, 1 Aug., 1832, B. O. 144; 29 Oct., 1831, B. O. 140; 9 March, 1874, 3, 68; 12 Sept., 1884, 3, 609; 28 Jan., 1891, 4, 494; 21 July, 1897, B, 262; 7 Jan., 1899, R, 429; 29 June, 1899, B, 508; 2 April, 1900, R, 666; Res., 15 Dec., 1899; Res., 7 Nov., 1902.

**Mary ('s) (Av.).**

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from Front St. to Court Av., 24 Jan., 1903, C, 474. *Sewers*, 3 Oct., 1893, A, 391; 21 July, 1897, B, 274.

**Mather Al.**

*Sewer*, 28 July, 1906, D, 680.

**Mayflower (Av.).**

*Sewer*, 17 March, 1888.

**Meadow Lane.**

Laid out, 1803, 3d Sessions Docket, p. 140, 4, 240; width fixed, 9 July,

1842, B. O. 185; paved and curbed from Second to Third St., 24 Jan., 1903, C, 474.

**Mifflin Av.**

Opened from Hamilton to Muench St., 15 May, 1874, 385, and from Reilly to Maclay St., 9 July, 1896, B, 95; opened and graded from Muench to Peffer St., 28 Dec., 1904, D, 224. *Sewers*, 11 April, 1885, 2, 103; 6 July, 1893, A, 336; 13 Aug., 1894, A, 543.

**Moltke (Av.).**

Placed on official plan, 13 Nov., 1900, B, 721. *Sewer*, 13 Nov., 1900, B, 724.

**Montgomery.**

Grass plots, 22 June, 1906, D, 628. *Sewer*, 24 Aug., 1882, 3, 436.

**Moore.**

Placed on official plan, 12 Oct., 1897, B, 305.

**Mount Pleasant Av.**

Placed on official plan, 15 Feb., 1904, C, 731.

**Muench.**

Opened, graded and curbed from Front to Seventh St., 13 Aug., 1866, 1, 280, and from Third to Front St., 20 Nov., 1874, 3, 111; graded from Fifth to Third St., 12 Nov., 1885, 453, and from Sixth to Seventh St., 16 Nov., 1887, 4, 183; opened from Third to Front St., 29 Sept., 1890, 4, 473, and graded, 19 Nov., 1894, A, 587. *Sewer*, 23 Nov., 1892, A, 176.

**Mulberry.**

General grade fixed, 29 July, 1796, B. O. 13; curbed, &c., from Front to Second St., 25 April, 1810, B. O. 55; from Second to Third St., 6 July, 1822, B. O. 112, and 23 Oct., 1827, B. O. 131; lowered at Second St., 14 Aug., 1813, B. O. 77; width fixed, 9 July, 1842, B. O. 185; watchman required at Second and Third Sts., 21 June, 1858, B. O. 226; opened, graded and curbed from Crescent to Thirteenth St., 5 March, 1865, 1, 190; from Meadow lane to Eleventh St., 8 July, 1865, 1, 214; from Eleventh to Crescent St., 3 April, 1869, 1, 387; 16 Nov., 1874, 2, 21, and 13 Aug., 1873, 3, 8; vacated from Meadow lane to Pennsylvania Canal, 3 Dec., 1887, 2, 249; opened, graded and curbed east of Third St., 22 March, 1875, 3, 137; graded, 10 Dec., 1881, 3, 404; 28 Feb., 1883, 4, 77, and 14 June, 1883, 3, 490; opened from Pennsylvania Canal to Lebanon Valley Railroad, 18 Jan., 1888, 4, 219; widened from Cameron St. to Pennsylvania Railroad, 10 March, 1890, 2, 334; opened between Lebanon Valley Railroad and Cameron St., 10 Oct., 1890, 2, 388; paved and curbed from Front to Third St. and from Mulberry St. bridge to Derry St., 24 Jan., 1903, C, 474; lot at Derry and Mulberry Sts. and Prune Av. purchased by city, Res., 28 Jan. and 1 April, 1903. *Sewers*, 30 Oct., 1884, 2, 111; 2 April, 1888, 2, 263; 16 Aug., 1881, 3, 369; 30 Oct., 1884, 2, 111; 2 Feb., 1886, 4, 88; 28 July, 1906, D, 680.

**Myrtle (Av.).**

Width fixed, 9 July, 1842, B. O. 185; opened, graded and curbed, 5 Feb., 1870, 1, 414; width fixed between Herr St. and Sassafras Av., 14 Sept., 1882, 2, 90; paved and curbed from South to North St., 24 Jan., 1903, C, 474. *Sewers*, 5 Aug., 1871, 1, 475; 2 March, 1872, 1, 532; 10 Aug., 1893, A, 371; 2 March, 1894, A, 465; 11 Dec., 1905, D, 451.

**Nagle.**

Opened, graded and curbed from Race St. to Pennsylvania Canal, 7 Jan., 1865, 1, 185; vacated from Second St. to western side of old line of the H. P., Mt. J. & L. R. R., 3 Dec., 1887, 2, 249; sidewalk widened, 3 Oct., 1868, 1, 366.

**Naudain.**

Placed on official plan from Argyle to Eighteenth St., 27 June, 1900, B, 685.

**Nectarine (Av.).**

Opened, graded and curbed from Mulberry to Berryhill St., 18 Feb., 1876, 3, 154; graded from Kittatinny to Swatara St., 4 Nov., 1904, D, 149. *Sewer*, 2 Aug., 1886, 4, 107.

**Ninth.**

Opened, graded and curbed from Mulberry to State St., 7 July, 1866, 1, 267, and from Manada to Shaonis St., 16 Nov., 1874, 2, 15; opened from Hemlock to Paxton St., 16 April, 1887, 2, 211; opened and graded from intersection with Dock St. southwardly, 3 Dec., 1887, 2, 249; opened southwardly from its intersection with Race St., 18 Jan., 1888, 4, 221; amended, 24 Oct., 1888, 4, 270; grade changed, Res., 5 March, 1900; opened from Herr to Reilly St., 28 Nov., 1900, B, 749; placed on official plan, 19 Jan., 1906, D, 483.

**North Av.**

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from Third St. to West Av., 20 March, 1900, B, 638, and from Fourth St. to Poplar Av., 24 Jan., 1903, C, 474. *Sewer*, 15 July, 1873, 3, 5.

**North.**

Width fixed, 9 July, 1842, B. O. 185; opened, graded and curbed from Tenth St. to Harrisburg Cemetery, 16 Nov., 1874, 2, 17; opened from Paxton creek to Twelfth St., 16 Jan., 1880, 3, 247; changed, relocated and straightened from Paxton creek to Twelfth St., 15 Nov., 1884, 3, 625; paved and curbed from Front to Third St., and from West Av. to Pennsylvania R. R., 24 Jan., 1903, C, 474; opened and graded from Fifteenth to Eighteenth St., 9 March, 1906, D, 512. *Sewers*, 26 Jan., 1863, 1, 106; 29 Aug., 1863, 1, 127; 9 June, 1866, 1, 259, and 6 Oct., 1866, 1, 287; 14 Sept., 1880, 3, 302.

**Oak (Av.).**

Placed on official plan, 13 Nov., 1900, B, 721. *Sewer*, 13 Nov., 1900, B, 724.

**Oil (Av.) AL.**

Placed on official plan, 17 Jan., 1902, C, 164. *Sewer*, 8 March, 1902, C, 209.

**Orange (Av.) AL.**

Placed on official plan, 12 Oct., 1897, B, 305.

**Park. See Crabapple.**

Placed on official plan, 28 Nov., 1900, B, 742. *Sewer*, 15 Dec., 1902, C, 438.

**Paxton.**

Turnpiked, 19 May, 1824, B. O. 120; curbed, &c., from eastern termination to Second St., 23 Oct., 1827, B. O. 131; width fixed, 9 July, 1842, B. O. 185; opened from bridge over Paxton creek, 23 April, 1863, 1, 110; opened from eastern terminus of approach of bridge to eastern side of Eleventh St., 12 Sept., 1887, 4, 178; opened from Pennsylvania Canal to Cameron St., 13 March, 1893, A, 257. *Sewers*, 16 Aug., 1881, 3, 371; 1 April, 1905, D, 308; 28 July, 1906, D, 680.

**Pear Av.**

Vacated from Elder St. to James Av., 5 March, 1886, 4, 94.

**Peffer.**

Opened, graded and curbed from Front to Sixth St., 5 Sept., 1866, 1, 285; graded from Sixth to Fourth St., 13 Nov., 1885, 4, 61; opened from Third to Front St., 10 Feb., 1890, 2, 330; graded from Second to Third St., 9 Dec., 1895, B, 2, and from Third to Fourth St., 27 Jan., 1890, 4, 437.

**Penn AL.**

Opened, graded and curbed from Charles AL. to Herr St., 10 July, 1866, 1, 273. *Sewer*, 15 July, 1885, 4, 17.

**Penn Av.**

*Sewer*, 17 Nov., 1903, C, 667.

**Penn.**

Opened, graded and curbed from Herr St. to Charles AL., 18 Feb., 1876, 3, 156; placed on official plan, 12 Oct., 1897, B, 305. *Sewers*, 31 Aug., 1883, 3, 531; 27 Oct., 1892, A, 141; 2 Oct., 1901, C, 101.

**Pheasant Av.**

Vacated from Paxton to Sycamore St., 15 Aug., 1893, A, 382; cancelled, 20 Jan., 1901, B, 769.

**Pigeon (Av.).**

Abolished from Schanols to Hanover St., 15 Aug., 1893, A, 382; opened from Hanover to Magnolia St., 10 July, 1903, C, 611, and graded, C, 613.

**Pike Av.**

Placed on official plan, 1 Aug., 1892, A, 95; name changed to Julia AL. from Herr to Verbeke St., 10 Aug., 1893, A, 362.

**Pine.**

Curbed, &c., from Front to Third St., 6 July, 1822, B. O. 112, and 23 Oct., 1827, B. O. 131; width fixed, 9 July, 1842, B. O. 185; paved and curbed from Front to Third St., 24 Jan., 1903, C, 474. *Sewer*, 31 March, 1902, C, 255.

**Plum Al.**  
Named and placed on official plan, 4 March, 1890, 2, 329.

**Plum Av.**  
*Sewers*, 20 March, 1880, 3, 267; 12 May, 1904, D, 90.

**Poor-House Road.**  
Location changed, 6 Oct., 1868, 1, 368.

**Poplar (Av.).**  
Paved and curbed from South to North St., 24 Jan., 1903, C, 474. *Sewer*, 15 Sept., 1882, 3, 439.

**Poplar Lane.**  
Width fixed, 9 July, 1842, B. O. 185.

**Primrose (Av.).**  
Opened, graded and curbed from East to Seventh St., 7 May, 1864, 1, 156; curb line changed at Seventh St., Res., 24 Oct., 1903. *Sewer*, 3 June, 1871, 1, 462.

**Prune (Av.).**  
Lot at Derry, Mulberry Sts. and Prune Av. purchased by city, Res., 28 Jan. and 1 April, 1903.

**Race.**  
Vacated from Hanna to Ninth, 3 Dec., 1887, 2, 249. *Sewer*, 20 March, 1883, 3, 478.

**Raspberry (Av.), now Court.**  
Curbed, &c., from Pine to Mulberry St., 14 July, 1832, B. O. 143; width fixed, 9 July, 1842, B. O. 185; name changed, 1 Feb., 1883, 3, 469. *Sewer*, 9 June, 1866, 1, 261.

**Reel's Lane.**  
Vacated from Seventh to Sixth St., 12 June, 1901, C, 54.

**Reel.**  
Placed on official plan, 12 Oct., 1897, B, 305; graded from Seneca to Schuylkill St., 10 Aug., 1906, D, 399.

**Reese (Av.).**  
Permission to grade from Thirtieth to Hummel St., Res., 18 May, 1903.

**Regina.**  
Opened from Fourteenth St. to Chayne Al., 3 June, 1871, 1, 463; opened, graded and curbed from Thirtieth to Sixteenth St., 18 Feb., 1876, 3, 154; placed on official plan from Sixteenth St. westward, &c., 29 March, 1880, 4, 288; graded from Sixteenth to Eighteenth St., 8 Dec., 1894, A, 597; placed on official plan, 28 Nov., 1900, B, 742; grass plots, 22 June, 1906, D, 642. *Sewers*, 1 Oct., 1896, 4, 121; 16 Nov., 1893, A, 415; 11 Nov., 1902, C, 410.

**Relly.**  
Opened, graded and curbed from Seventh to Front St., 5 Nov., 1864, 1, 178, and graded, 24 June, 1865, 1, 210, and 3 March, 1866, 1, 237; line changed from Eighth to Eleventh St., 23 March, 1876, 3, 168; opened from Pennsylvania Canal to Eleventh St., 6 Aug., 1884, 3, 600; paved and curbed from Front to Second St., 10 Aug., 1905, D, 384; grass plots, 20 July, 1905, D, 374. *Sewers*, 28 Nov., 1873, 3, 37; 31 Jan., 1882, 3, 409; 31

March, 1897, B, 216; 27 Sept., 1889, 4, 493; 27 Sept., 1889, 4, 496.

**Rhoads (Av.) Al.**  
Placed on official plan from Pepper St. to Delaware Av., 12 Nov., 1903, C, 680.

**River (Av.).**  
Curbed, &c., 14 July, 1832, B. O. 143; width fixed, 9 July, 1842, B. O. 185; placed on official plan from Maclay to Emerald St., 12 Oct., 1897, B, 305; paved and curbed from Chestnut to South St., 24 Jan., 1903, C, 474. *Sewers*, 4 June, 1864, 1, 159; 21 July, 1897, B, 274; 6 July, 1903, C, 575; 6 July, 1903, C, 579; 12 May, 1904, D, 90; 2 Dec., 1904, D, 199.

**Roberts.**  
Vacated from Berryhill to Hill St., 3 April, 1893, A, 396.

**Rose.**  
*Sewer*, 28 July, 1906, D, 680.

**Salmon.**  
*Sewer*, 13 Nov., 1905, D, 441.

**Sarah (Av.).**  
Opened, graded and curbed from Boas St. to York Al., 1 Feb., 1875, 2, 24. *Sewer*, Res., 31 May, 1902.

**Sayford (Av.).**  
Opened, graded and curbed from Front St. to Bartine Al. and from Fulton to Seventh St., 2 Dec., 1865, 1, 230; opened from Eighth to Eleventh St., 31 July, 1885, 2, 123. *Sewers*, 10 July, 1872, 1, 561; 15 Nov., 1875, 2, 33; 17 Jan., 1877, 2, 179; 11 Dec., 1873, 3, 46; 4 Oct., 1886, 4, 126; 17 March, 1891, 4, 504; 27 Oct., 1892, A, 141; 28 Dec., 1896, B, 150; 28 July, 1906, D, 680.

**Schaefer Av.**  
Named, 14 Jan., 1901, B, 773. *Sewer*, 25 July, 1906, D, 672.

**Schuylkill.**  
Opened from Sixth to Seventh St., 12 June, 1901, C, 56; graded from Third to Sixth St., 10 Aug., 1905, D, 403. *Sewers*, 1 Dec., 1899, B, 553, and 11 July, 1900, B, 687; Res., 30 March, 1901; 28 Aug., 1900, B, 698.

**Second.**  
Lowered near Mulberry St., 29 July, 1796, B. O. 13; extended by order of court through lands of Wm. Maclay [South St.], 1804, 3 Sessions Docket, 183; curbed, &c., from Mulberry to Pine St., 25 April, 1810, B. O. 55, and from Pine St. to Maclay's line, 6 July, 1827, B. O. 112; lowered at Mulberry St., 14 Aug., 1813, B. O. 77; privilege given to Harrisburg and Middletown Turnpike Road Company to extend road through and along, 9 April, 1823, B. O. 113; turnpiked, 22 April, 1823, B. O. 113; curbed, &c., from Cherry Al. to intersection with Paxton St. and from Pine St. to Maclay's line, 23 Oct., 1827, B. O. 131; width fixed from Paxton to North St., 9 July, 1842, B. O. 185; opened, graded and curbed from Briggs to Relly St., 8 Aug., 1865, 1, 220, and 3 Nov., 1866, 1, 296, and from North to Briggs St., 8 Dec., 1866, 1, 303; opened from

Reily to Maclay St. and from Paxton to Race St., 4 March, 1871, 1, 451-1; vacated from Paxton to Dock St., 3 Dec., 1887, 2, 249; opened, &c., from Paxton to Dock St., 11 Dec., 1874, 3, 114; opened from Cedar St. to southern limits, 13 March, 1893, A, 259; graded from Reily to Maclay St., 9 Dec., 1895, B, 16, and from Reily to Hamilton St., 18 July, 1896, B, 106; paved and curbed from Vine to Hamilton St., 24 Jan., 1903, C, 474, and Res., 18 May, 1903; grass plots, 10 July, 1906, D, 657. *Sewers*, 31 Aug., 1815, B. O. 88; 4 June, 1864, 1, 160; 3 June, 1865, 1, 203 and 227; 6 June, 1868, 1, 348; 7 July, 1871, 1, 464; 9 May, 1872, 1, 542; 10 June, 1872, 1, 546; 18 Nov., 1886, 2, 167; 31 Aug., 1883, 3, 524; Res., 24 Nov., 1899; 8 Dec., 1903, C, 697; 16 Nov., 1905, D, 443; 28 July, 1906, D, 680.

#### Seneca.

Graded from Fifth to Sixth St., 20 Oct., 1902, C, 353; from Third to Fifth St., 17 Jan., 1903, C, 451, and from Front to Fifth St., 6 Aug., 1903, C, 635. *Sewers*, 1 Nov., 1901, C, 117; 4 March, 1903, C, 490; 6 Aug., 1903, C, 639; 27 July, 1904, D, 108.

#### Seventeenth.

Opened from Vernon to Derry St., 10 July, 1872, 1, 562; opened, graded and curbed from Herr to State St., 16 Nov., 1874, 2, 16; graded from Vernon to Derry St., 31 March, 1887, 2, 188; opened from Walnut to Elm St., 15 Dec., 1880, 3, 308, and from Swatara to Paxton St., 23 March, 1888, 4, 248, and from Vernon to Derry St., 17 Aug., 1888, 2, 68, and from State to Elm, 10 Aug., 1905, and from State to North, 10 Aug., 1905, D, 395 and 403; graded from Vernon to Walnut St., 25 June, 1894, A, 529; paved and curbed from Derry to Walnut St., 24 Jan., 1903, C, 474. *Sewers*, 18 May, 1896, B, 35, and two, 1 April, 1905, D, 319; 28 July, 1906, D, 680.

#### Seventh.

Opened, graded and curbed from Verbeke to Maclay St., 6 Sept., 1865, 1, 224, and from Granite Al. to Maclay St., 5 March, 1870, 1, 416; opened from Vernon to Herr St., 17 Aug., 1888, 2, 268; paved and curbed from North to Maclay St., 24 Jan., 1903, C, 474; graded from Maclay to Schuylkill St., 10 Aug., 1905, D, 403; opened and graded from Schuylkill to Division St., 14 Sept., 1905, D, 413. *Sewers*, 5 April, 1881, 3, 341; Res., 14 July, 1882, 3, 435; 31 Dec., 1884, 3, 641; 27 Aug., 1889, 4, 350; 1 Dec., 1899, B, 553, and Res., 30 March, 1901; 2 Oct., 1901, C, 106; Res., 18 Sept., 1901.

#### Shannon.

Opened from Tenth to Paxton, 29 March, 1888, 2, 261; 31 Oct., 1889, 4, 381.

#### Shaonis.

Opened, graded and curbed from Ninth to Eleventh St., 15 Nov., 1874, 2, 13; vacated from Cameron to Fourteenth St., 15 Aug., 1893, A, 382. *Sewer*, 28 July, 1906, D, 680.

#### Sharon, now Fifteenth.

Graded from Vernon to Derry St., 31 March, 1887, 2, 202; name changed, 17 Jan., 1896, B, 14.

#### Shoop.

Graded from Fourteen-and-one-half to Fourteenth St., 30 March, 1889, 4, 310. *Sewers*, 29 March, 1889, 4, 299, and 25 Sept., 1889, 4, 354.

#### Short.

Width fixed, 9 July, 1842, B. O. 185; paved and curbed between Walnut and South Sts., 2 July, 1902, C, 284.

#### Showers (Av.).

*Sewer*, 28 Sept., 1875, 2, 127.

#### Singer Av. See Fridley's Al.

#### Six-and-a-half.

Lines established between Maclay and Division Sts., 10 July, 1901, C, 60, and opened and graded, 8 Aug., 1904, D, 119. *Sewers*, 1 Nov., 1901, C, 117; 15 July, 1902, C, 295; 24 March, 1903, C, 506; 24 Nov., 1905, D, 447; 7 March, 1906, D, 510; two, 28 July, 1906, D, 680; 27 July, 1906, D, 673.

#### Sixteenth.

Opened from Herr to State St., 15 Nov., 1883, 3, 555; opened and graded from State to North St., 8 Aug., 1904, D, 125; opened from State to Walnut St., 10 Aug., 1905, D, 395; opened and graded from North to Herr St., 7 Feb., 1906, D, 496; grass plots, 22 June, 1906, D, 638 and 640. *Sewers*, 9 June, 1893, A, 311; 22 Oct., 1901, C, 113; 15 Dec., 1902, C, 438; 28 June, 1906, D, 680.

#### Sixth. See Back Al.

Width fixed, 9 July, 1842, B. O. 185; opened, graded and curbed from Reily to Maclay St., 6 Sept., 1865, 1, 223 and 237; graded from North to Forster St., 2 April, 1887, 2, 206; paved and curbed from North to Maclay St., 15 March, 1890, 2, 340, and 13 Aug., 1890, 2, 370, and from Reily to Maclay St., 12 Sept., 1892, A, 113. *Sewer*, 28 Aug., 1900, B, 698.

#### South Av.

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from West to Poplar Av., 24 Jan., 1903, C, 474, and width regulated, 28 Dec., 1904, D, 228. *Sewers*, 17 Jan., 1903, C, 453; 12 May, 1904, D, 90.

#### South.

Width fixed, 9 July, 1842, B. O. 185; opened, graded and curbed from Filbert to Canal St., 11 Dec., 1863, 1, 135; paved and curbed from Front to Third St. and from Fourth St. to Pennsylvania Railroad, 24 Jan., 1903, C, 474. *Sewers*, 16 Sept., 1861, 1, 44; 15 Sept., 1882, 3, 439; 31 March, 1897, B, 216.

#### Spray (Av.).

Placed on official plan, 12 Oct., 1897, B, 305. *Sewer*, 9 July, 1897, B, 240.

#### Spring (Av.).

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from State to South St., 24 Jan., 1903, C, 474.

**Spruce.**

Width fixed, 9 July, 1842, B. O. 185. *Sewer*, 11 July, 1882, 8, 428.

**State.**

Width fixed from Susquehanna river to Pennsylvania Canal, 12 Oct., 1839, B. O. 1, 50, and 1 Aug., 1840, B. O. 1, 52, and 9 July, 1842, B. O. 1, 85. See Road Docket, 1845, p. 338. Opened from Paxton creek to Jonestown road, 14 Jan., 1873, 1, 602; graded at new water works, 9 June, 1873, 1, 630; paved and curbed from Front to Third St., from Fourth St. to Pennsylvania Railroad, and from Thirteenth St. to eastern limits, 24 Jan., 1903, C, 474; grass plots, 8 Aug., 1904, D, 123. *Sewers*, 7 Dec., 1889, 4, 415; 29 Oct., 1902, C, 882; Res., 19 Oct., 1898.

**Strawberry (Av.).**

Curbed, &c., from Front to Fourth St., 14 July, 1832, B. O. 143; width fixed, 9 July, 1842, B. O. 185; paved and curbed from Third St. to Market Square, 1 July, 1886, 4, 101; paved and curbed from Front St. to River Av. and from Third St. to Pennsylvania Railroad, 24 Jan., 1903, C, 474. *Sewer*, 12 May, 1904, D, 90.

**Summit.**

Opened from Derry St. to Thompson Av., 7 Nov., 1902, C, 402, and 30 Dec., 1904, D, 235. *Sewers*, 5 April, 1890, 4, 442; 27 July, 1906, D, 673.

**Susquehanna.**

Graded between Calder and Reilly Sts., 9 June, 1866, 1, 260; opened, graded and curbed from Reilly to Maclay St., 20 Nov., 1874, 3, 106; eastern boundary straightened, &c., 14 Feb., 1876, 3, 149; placed on official plan, 12 Oct., 1897, B, 305. *Sewers*, 22 March, 1880, 3, 275; 30 Jan., 1900, B, 572; 12 Dec., 1901, C, 146; 16 June, 1902, C, 268, and 20 Oct., 1902, C, 343; 11 Dec., 1905, D, 451; 19 July, 1906, D, 663.

**Swatara.**

Graded from Crescent to Fourteenth St., 14 June, 1883, 3, 490; opened from Hummel to Fourteenth St., 11 March, 1884, 3, 573; graded from Hummel to Crescent, 17 March, 1888, 4, 242, and 2 March, 1894, A, 460; graded from Crescent to Sixteenth St., 22 Jan., 1895, A, 616, and from Fifteenth to Sixteenth St., 10 Aug., 1905, D, 403. *Sewers*, 7 March, 1900, B, 605; Res., 27 Jan., 1900.

**Sweetbriar (Av.).**

Placed on official plan, 28 Nov., 1900, B, 742.

**Sycamore.**

Opened, graded and curbed from Front to Fourteenth St., 16 Nov., 1874, 2, 12; vacated from Ninth St. to Pennsylvania Canal, 16 Dec., 1876, 2, 60; opened from Ninth to Eleventh St., 29 Sept., 1884, 3, 619; graded from Ninth to Cameron St., 11 Dec., 1890, 4, 482, and 27 Feb., 1900, B, 587; abolished from Pennsylvania Canal to Front St., 5 Feb., 1892, A, 14; approaches to bridge graded, 8

June, 1895, A, 696. *Sewers*, 28 July, 1906, D, 680; Res., 31 May, 1901.

**Sylvan Terrace. See Crescent.**

Paved and curbed from Derry to Mulberry St., 24 Jan., 1903, C, 474.

**Tanner's (Lane) (Av.), now Tanner.**

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from Walnut to South St., 24 Jan., 1903, C, 474. *Sewers*, 10 June, 1881, 3, 49; 12 May, 1904, D, 90.

**Tenth.**

Vacated from Mulberry St. to P. & R. R. R., 25 Feb., 1901, B, 784; paved and curbed from Market to Mulberry St., 24 Jan., 1903, C, 474. *Sewers*, 2 Feb., 1886, 4, 88; 17 Nov., 1903, C, 689.

**Third.**

General grade fixed, 29 July, 1796, B. O. 13; extended through lands of William Maclay, by order of court, 1809, 4, Sessions Docket, p. 30; curbed, &c., from Mulberry to Pine St., 6 July, 1822, B. O. 112, and 23 Oct., 1827, B. O. 131; width fixed, 9 July, 1842, B. O. 185; opened, graded and curbed from Reilly to Maclay St., 6 Feb., 1814, 1, 164; sidewalk widened between Meadow lane and Reilly St., 21 Nov., 1864, 1, 179; improved, 3 March, 1866, 1, 237; graded from Reilly to Maclay St., 10 July, 1866, 1, 272; graded, paved and curbed from Mulberry to Reilly St., 15 Dec., 1887, 4, 205; graded from Reilly to Maclay St., 6 March, 1888, 4, 233; paved and curbed from Mulberry to Maclay St., 13 July, 1889, 4, 345; opened from Maclay to Division St., 16 June, 1902, C, 266; paved and curbed from Maclay to Emerald St., 15 July, 1902, C, 308; opened and graded from Emerald to Seneca St., 27 Dec., 1904, D, 213; abolished from Locust to Walnut St. and Federal Square substituted, 14 July, 1905, D, 368. *Sewers*, 6 June, 1868, 1, 349; 6 Nov., 1869, 1, 410; 16 March, 1881, 3, 331; 10 June, 1881, 3, 351; 27 Aug., 1889, 4, 352.

**Thirteenth.**

Opened, graded and curbed from Hummelstown turnpike to Jonestown road, 23 Jan., 1865, 1, 186, and from Hummelstown pike to Roberts St., 5 March, 1870, 1, 417, and from Walnut St. to Harrisburg Cemetery, 15 Oct., 1874, 2, 6; from Derry to Roberts St., 16 Nov., 1874, 2, 10; from Derry to Berryhill St., 18 Feb., 1876, 3, 152; opened from Regina to Shoop St., 25 Jan., 1884, 3, 562, and from State to Harrisburg Cemetery, 22 Oct., 1889, 4, 423; abolished from Sycamore to Hanover St., 15 Aug., 1893, A, 382; placed on official plan, 15 Aug., 1893, A, 382; graded from State St. to line of property of Harrisburg Cemetery, 22 Jan., 1895, A, 611; graded and extended from terminus at Herr's lane, &c., Res., 9 Nov., 1898, B, 432; placed on official plan from Roberts to Paxton St., 29 March, 1900, B, 652, and opened from Berry-

hill to Hanover St., 29 March, 1900, B. 634, and from Berryhill to Roberts St., 22 March, 1901, C. 87, and from intersection of Roberts with Thirteenth St. to Paxton St., 16 June, 1902, C. 260; paved from cemetery entrance to Berryhill St., 24 Jan., 1903, C. 474; opened from Hanover to Magnolia St., 10 July, 1903, C. 605, and graded, 10 July, 1903, C. 607. *Sewers*, 21 Oct., 1885, 4, 38 and 41; 15 Oct., 1890, 4, 474; 8 July, 1890, 2, 355; 21 Nov., 1894, A. 593; 11 July, 1900, B. 690; 30 Dec., 1904, D. 230; 12 Sept., 1889, 2, 284; 12 Sept., 1889, 4, 368.

#### Thompson (Av.).

Opened, graded and curbed from Thirteenth to Seventeenth St., 12 Jan., 1875, 3, 122, and 15 March, 1880, 3, 264; 3 Aug., 1885, 4, 19; vacated between Thirteenth St. and Crooked Al., 3 Aug., 1885, 4, 19. *Sewers*, 18 Sept., 1886, 2, 139; 30 March, 1889, 4, 297; 1 July, 1895, A. 710; Res., 4 Aug., 1888, 4, 294; 1 July, 1895, A. 710; 27 July, 1904, D. 114.

#### Tulip (Av.).

Vacated from Cameron to Thirteenth St., 15 Aug., 1893, A. 382.

#### Tuscarora.

Opened, graded and curbed from Front St. to Pennsylvania Canal, 10 Jan., 1866, 1, 234; vacated from Second St. to western side of old line of H. P., Mt. J. & L. R. R., 3 Dec., 1887, 2, 249. *Sewer*, 1 April, 1905, D. 308.

#### Twelfth.

Graded from Magnolia to Hanover St., 27 Sept., 1886, 2, 143; abolished from Ash to Hanover St., 15 Aug., 1893, A. 382, and placed on official map; opened from Bailey St. to Jonestown road, 29 Jan., 1894, A. 491; graded from Bailey to Walnut St., 24 Jan., 1903, C. 469, and 10 Aug., 1905, D. 380. *Sewers*, 6 Dec., 1904, D. 203, and 30 Dec., 1904, D. 230; 22 Oct., 1880, 4, 371.

#### Two-and-a-half, now Green.

Opened, graded and curbed from North to Reilly St., 3 Dec., 1864, 1, 180, and 9 June, 1866, 1, 257, and from Reilly to Maclay St., 24 Nov., 1874, 3, 108; name changed, 17 March, 1888, 4, 246. *Sewers*, 7 Oct., 1871, 1, 488; 12 Feb., 1872, 1, 523; 15 Nov., 1884, 3, 627.

#### Union (Av.).

Opened, graded and curbed from Front to Second St., 18 Feb., 1876, 3, 152.

#### Verbeke. See Broad.

Opened from Fulton to Seventh St., 23 April, 1863, 1, 111; improved, 3 March, 1866, 1, 237; graded from Fulton to Seventh St., 23 April, 1866, 1, 241; opened, graded and curbed from Front St. to low-water mark, 4 Aug., 1866, 1, 279; paved and curbed from Front to Seventh St., 24 Jan., 1903, C. 474. *Sewers*, 29 Aug., 1863, 1, 124; 6 July, 1868, 1, 368; May 20,

1880, 3, 286; 31 Aug., 1880, 3, 299; 31 March, 1897, B. 218.

#### Vernon.

Straightened at Holly and Seventeenth Sts., 10 July, 1872, 1, 550; name changed to Chestnut St. from Summit to Thirteenth St., 31 Oct., 1895, A. 735; grass plots, 22 June, 1906, D. 644. *Sewer*, 23 July, 1906, 6, 80.

#### Vine.

Laid out by order of court, 1827, 6 Sessions Docket, p. 223; width fixed, 9 July, 1842, B. 185; vacated from west side of Tenth St. to its present intersection with Kittatinny St., 20 Sept., 1894, A. 541.

#### Wallace. See Elizabeth.

Opened from Basin Av. to Reilly St., 9 April, 1880, 3, 279, and from Reilly to Hamilton St., 7 Feb., 1884, 3, 565. *Sewers*, 5 June, 1869, 1, 397; 7 July, 1871, 1, 465; 23 April, 1874, 3, 73; 10 June, 1881, 3, 356; 4 June, 1896, B. 63; 22 July, 1903, C. 625.

#### Walnut.

General grade fixed, 29 July, 1796, B. O. 13; curbed, &c., from Front to Third St., 25 April, 1810, B. O. 55, and from Third to Fourth St., 6 July, 1822, B. O. 112, and 23 Oct., 1827, B. O. 131; width fixed, 9 July, 1842, B. O. 185; opened, graded and curbed from Twelfth to Thirteenth St., 18 Feb., 1876, 2, 36, and from Thirteenth to Eighteenth St., 11 Dec., 1874, 3, 117; opened from Hancock St. to Paxton creek, 16 July, 1887, 4, 165; paved and curbed from Front to Filbert St., 13 July, 1890, 2, 362, and 25 March, 1891, 2, 415; graded from Brady Av. to Eighteenth St., 29 July, 1897, B. 280; paved and curbed from Filbert St. to Pennsylvania Railroad, and from Thirteenth St. to eastern limits, 24 Jan., 1906, C. 474; abolished from Third to Court St. and Federal Square substituted, 14 July, 1905, D. 368; placed on official plan in Ninth ward, 19 Jan., 1906, D. 483. *Sewers*, 31 Aug., 1815, B. O. 88; 2 July, 1864, 1, 168; 3 June, 1865, 1, 203 and 227; 22 Jan., 1895, A. 633; 18 June, 1903, C. 557; 17 Nov., 1903, 639; 17 Nov., 1903, 6, 91.

#### Washington (Av.). See Harris' Al.

Paved and curbed from Front to Second St., 24 Jan., 1903, C. 474. *Sewer*, 12 May, 1904, D. 90.

#### Water.

Relocated and changed to Water Av., 8 March, 1902, C. 207.

#### Wert Place.

Placed on official plan from Sylvan Terrace eastward, 12 Nov., 1893, C. 678.

#### West Av.

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from South to North St., 24 Jan., 1903, C. 474.

#### Wharton (Av.) Al.

Named, 9 July, 1896, B. 95; placed on official plan, 12 Oct., 1897, B. 304. *Sewer*, 3 July, 1898, B. 226.

**William.**

*Sewers*, 12 May, 1886, 1, 244; 18 Sept., 1873, 3, 17; 18 March, 1893, A, 270.

**Willis Al.**

Paved and curbed from State to South St., 24 Jan., 1903, C, 474.

**Willow (Av.).**

Width fixed, 9 July, 1842, B. O. 185; paved and curbed from State to North St., 24 Jan., 1903, C, 474. *Sewer*, 12 May, 1904, D, 90.

**Wood (Av.).**

Graded from Kelker St. to Dauphin Av., 1 Sept., 1883, 3, 527, and from Delaware Av. to Maclay St., 12 Nov., 1885, 4, 57. *Sewers*, 19 June, 1894, A, 506; 21 July, 1897, B, 270. See *Sewer District No. 7*.

**Woodbine.**

Graded from Sixth to Six-and-a-half St., 8 Aug., 1904, D, 180, and from Brensinger Av. to Maclay St., 22 Dec., 1904, D, 207. *Sewers*, 9 July, 1897, B, 240 (two).

**Wright Al.**

Paved and curbed from Chestnut St. to Blackberry Av., 24 Jan., 1903, C, 474.

**Wyeth (Av.).**

Opened from Basin Av. to Reily St., 2 March, 1880, 3, 261, and vacated, 9 Dec., 1880, 3, 307, and placed on official plan, 9 Dec., 1880, 3, 308. *Sewers*, 7 April, 1873, 1, 610; 1 Nov., 1886, 2, 153; 28 July, 1906, D, 680.

**York (Av.).**

Opened, graded and curbed from Sixth to Seventh St., 1 Feb., 1875, 2, 24.\* *Sewers*, 9 July, 1884, 3, 595; 2 Sept., 1885, 4, 30.

**Yousling (Av.) Al.**

*Sewer*. See *Sewer District No. 7*.

**Zarker.**

Placed on official plan, 29 March, 1880, 4, 289. *Sewer*. Private Res., 27 Oct., 1897.

**Zeigler Al.**

Paved and curbed from Mulberry St. to Cherry Av., 24 Jan., 1903, C, 474.

**Miscellaneous.**

Ten-foot alley from Fifteenth to Sixteenth St., between Juniper and North Sts., vacated, 24 July, 1906, D, 664.

**Roads and streets laid out by order of court.**

Road from Harrisburg to Fackler's Mill laid out 40 feet wide in 1787, 1st Sessions Docket, p. 79. Road from Harris's Ferry to McAlister's Mill laid out 40 feet wide in 1788, 1st Sessions Docket, 108. Road from Market St. to Dutch Church on Jonestown road, laid out 40 feet wide in 1789, 1st Sessions Docket, 138. Road from Paxton St. to Landis's Mill laid out 40 ft. wide in 1793, 1st Sessions Docket, 280. Road from the borough line in the direction of Front St. to Paul Gemberling's, laid out 88 feet wide in 1815, 5th Sessions Docket, 31. Street from intersection of Front and Paxton Sts. to meet the one laid out to Paul Gemberling's in 1817, 45 feet wide, 5th Sessions Docket, 125. Street from east end of Chestnut St. to bridge over Paxton creek, laid out in 1734, Supreme Court papers, letter C. Street from west end of State St. on Front St.; thence to front of water house and up the Susquehanna, to intersect the public road leading to Sunbury, laid out in 1842. Road Docket, p. 283.

## Street Sprinkling.

[See WATER AND LIGHTING DEPARTMENT.]

## Subways.

[See RAILROADS—STREETS.]

Herr street, 2.

Market street, 1.

**Market street.**

1. Authorizing and directing that the necessary changes be made in Market and Cowden streets to conform to the plans and specifications adopted by councils for the construction of the Market street subway and the approaches thereto. 12 June, 1901. C, 52.

**Herr street.**

2. Authorizing the construction and maintenance of a subway crossing under the tracks and right of way of the Pennsylvania Railroad Company, where they intersect with Herr street, and the

western approach thereto; directing the city solicitor to enter into a contract with said company for the construction and maintenance of the same, subject to the approval of councils; and vacating a portion of the surface of Herr street to provide for the proper construction of said subway. 8 March, 1902. C, 213.

## Sunday.

[See NUISANCES.]

## Supervisors.

[See HIGHWAY DEPARTMENT, 4—NUISANCES—PASSENGER RAILWAYS, 3—RAILROADS—VAGRANTS.]

### Compensation, duty and election of.

1. It shall be the duty of councils to divide the city into two street districts, and the electors in said districts, qualified to vote for city officers, shall at the usual time and place for the election of city officers, elect one person for each district as supervisor, who shall serve for one year, and receive a compensation of two dollars per day for each day actually employed, and shall be under the control of the city council. 22 April, 1868. P. L. 1137, §1.

## Supplies.

[See CONTRACTS.]

Bond of contractor, 3.	Proposals for certain, to whom addressed, 2.
Contract for, 2, 4.	Proposals for certain, when to be opened, 2.
Proposals for certain, to be advertised for, 1.	

### Proposals for stationery, &c., to be advertised for

1. That the president of the select council and the president of the common council jointly, shall, on the first Monday in April next and annually thereafter, by advertisement in two newspapers published in the city, at least ten days before the letting herein provided for, invite sealed proposals for contracts to furnish the stationery, paper and fuel used in the councils and other departments of the city government and all printing and printing paper now required by the laws and ordinances of this city. 25 Feb., 1875. 2, 26, §1.

### To whom addressed, when to be opened; Contract, how to be awarded.

2. The proposals shall be addressed to the officer or officers advertising for the same and shall be opened by them on the day named in the advertisement in the presence of both branches of the city councils, and the contract shall be awarded by the said city councils to the lowest responsible bidder. Id., §2.

### Bond to be given.

3. That in all cases where contracts are awarded, in accordance with the provisions of this ordinance, the party or parties to whom



a contract may be awarded shall, before entering on the performance of the contract, give a bond with sufficient security, on such terms as may be prescribed by the city solicitor, conditioned for the faithful performance of the obligation of such contract, and in case of the party or parties failing to do so the contract shall be awarded to the next lowest responsible bidder. Id., §3.

Proposals for other materials and work may be advertised for.

4. That the several joint committees of the select and common councils are hereby authorized to advertise for proposals for furnishing such other materials and doing such other work as are not included in the first section of this ordinance as will properly be required to carry on the business of the city under their respective supervision from time to time, in the manner hereinbefore directed for special contracts. Id., §4.

## Swimming.

[See NUISANCES.]

## Swine.

[See ANIMALS AT LARGE.]

## Taxation.<sup>1</sup>

[See ASSESSORS—CITY TAX COLLECTOR—LICENSE AND LICENSE TAXES—SINKING FUND.]

Business of certain corporations subject to, 1.  
Penalty, 1.

Real estate of certain corporations, subject to, 1.  
Sinking fund, 1.  
Tax, how collected, 1.

Real estate of corporations (religious and educational excepted) subject to taxation; Repeal; Councils authorized to levy and collect tax on business of certain corporations; May amend assessments in certain case; Tax to be deducted from profits realized, and paid into city treasury; Failure to pay same; Proviso.

1. That all real estate situated in said city, owned or possessed by any corporation, except religious and educational corporations, shall be and is hereby made subject to taxation for city purposes the same as other property in said city; any law or laws contrary to or inconsistent with this section are hereby repealed. That the city councils are hereby empowered to levy, assess and collect for the use of the city, an annual tax, not exceeding one-third of one mill per dollar on the average quarterly business of all insurance companies, insurance agencies, express and telegraph companies, or other agencies or corporations doing business in said city, which do not now pay city tax; and in case any cashier, treasurer, secretary or other officer of any incorporation, associa-

<sup>1</sup> See 5 April, 1873. P. L. 553, §13.

tion or company, the business whereof is made taxable under this act, shall feel aggrieved by any assessment made in pursuance of this act, that then the aforesaid city councils shall have power to amend the said assessments, upon such cashier, treasurer, secretary or other officer filing his or their affidavit before the city councils aforesaid, stating that the amount or value of said capital stock or business, and the amount of the alleged error in assessment. The amount of tax which may be levied, assessed and collected, shall be retained and deducted by the cashiers, treasurers or other officers having charge of said institutions or companies, from the profits made by the same, and shall account for and pay the same into the treasury of the City of Harrisburg, one-half thereof on the first day of June, and the other half thereof on the first day of December in each and every year, and on the failure to pay the same, then the property of the said corporation or company shall be subject to levy and sale by any ward constable for the payment thereof, upon a warrant to be issued by the mayor; and all taxes levied in pursuance of this act may be recovered by the city councils, as debts of similar amount are recoverable by law; *Provided*, That the taxes thus collected shall constitute a sinking fund for the redemption of the funded debt of the city; *And provided further*, That the city councils are hereby authorized to pass all ordinances necessary to the enforcement of the provisions of this section. 22 April, 1868. P. L. 1136, §1.

## Taxes.

[See ANIMALS AT LARGE—CITY TAX COLLECTOR—LICENSE AND LICENSE TAXES—TAXATION.]

### City to pay taxes upon certain bonds.

1. That the City of Harrisburg be and the same is hereby authorized to pay through its legally constituted fiscal officers all taxes which may at any time be levied and assessed upon the bonds and the accompanying coupons issued to secure the loan of one million and ninety thousand dollars (\$1,090,000) by authority of an ordinance entitled "An ordinance authorizing the creation of a loan by the City of Harrisburg in the sum of \$1,090,000 for the extension, improvement and filtration of the water supply; for the extension and improvement of the sewerage system; for the construction of a dam in the Susquehanna river to form part of the sewerage system; for acquiring land and property for parks and for making park improvements; and for the creation of a fund out of which the city may defray the cost of paving the intersections of streets hereafter authorized to be paved; providing for the assessment and levying of a special tax for the payment of the principal and interest when due, and making an annual appropriation therefor," approved the thirty-first day of May, A. D. 1902. 13 March, 1903. C, 497, §1.

## Tax Collector.

[See CITY TAX COLLECTOR.]

### Telegraph and Telephone Companies.

[See LICENSE AND LICENSE TAXES—POLES AND WIRES.]

American Rapid Telegraph Com- pany, 1.	Dauphin County Telephone Company,
American Telegraph and Telephone Company, 2, 3.	10. Postal Telegraph Cable Company, 5, 6,
Baltimore and Ohio Telegraph Com- pany, 4.	7. Pennsylvania Telephone Company, 8, 9.

#### American Rapid Telegraph Co.

1. Granting to The American Rapid Telegraph Company a license, with certain restrictions and limitations, to occupy certain streets and avenues of the City of Harrisburg with poles and wires. 16 Sept., 1881. 3, 379.

#### American Telegraph and Telephone Co.

2. Granting permission to the American Telegraph and Telephone Company of Pennsylvania to erect its lines upon certain streets and avenues of the City of Harrisburg, Pa., upon the terms and conditions therein stated. 18 July, 1896. B, 102.

3. Granting permission to the American Telegraph and Telephone Company of Pennsylvania to occupy certain streets and avenues of the City of Harrisburg with poles and wires, and imposing certain restrictions and limitations. 13 Dec., 1890. 2, 412.

#### Baltimore and Ohio Telegraph Co.

4. Granting to The Baltimore and Ohio Telegraph Company a license, with certain restrictions and limitations, to occupy certain streets and avenues of the City of Harrisburg with an underground conduit and with poles and wires. 1 Sept., 1885. 4, 23.

#### Postal Telegraph Cable Co.

5. Granting to the Postal Telegraph Cable Company a license, with certain restrictions and limitations, to occupy certain streets and avenues of the City of Harrisburg with poles and wires. 11 Sept., 1890. 4, 470.

6. Granting to the Postal Telegraph Cable Company permission to construct, operate and maintain an underground conduit in certain streets and alleys of the City of Harrisburg, Pa., under certain conditions and restrictions. 21 April, 1903. C, 547.

7. To amend part of section 1 of an ordinance entitled, "An ordinance granting to the Postal Telegraph Cable Company permission to construct, operate and maintain an underground conduit in certain streets and alleys in the City of Harrisburg, under certain conditions and restrictions," approved the twenty-first day of April, 1903. 8 July, 1903. C, 589.

#### Pennsylvania Telephone Co.

8. Granting to the Pennsylvania Telephone Company a license, with certain restrictions and limitations, to occupy the streets

and avenues of the City of Harrisburg with poles and wires. 28 Feb., 1883. 3, 475.

9. Granting the Pennsylvania Telephone Company permission to construct, operate and maintain an underground conduit in the streets and alleys of the City of Harrisburg, Pa., under certain conditions and restrictions. 15 March, 1898. B, 371.

**Dauphin County Telephone Co.**

10. Giving permission to the Dauphin County Telephone Company to construct telephone lines in the City of Harrisburg, and for that purpose to build conduits, erect poles and string wires, and maintain the same for telephone purposes, over and under the public highways of said city. 25 Feb., 1891. B, 790.

## Theaters.

[See AUDITORIUMS (PUBLIC)—BUILDINGS—LICENSE AND LICENSE TAXES.]

## Title.

**Title of land taken for corporation purposes.**

1. That the title of all land already taken or to be taken hereafter, for any corporation purpose, except for streets or alleys, and paid for by the City of Harrisburg, under existing laws, shall vest in fee simple, in said city, and upon its relinquishment for corporation purposes shall be disposed of at public vendue, under such terms as may be fixed by the council of said city. 2 Jan., 1871. P. L. 1559, §4.

## Trees and Posts.

[See NUISANCES—POLES AND WIRES—SHADE TREES.]

## Vaccination.

[See BOARD OF HEALTH.]

**Harrisburg Hospital to vaccinate all persons; proviso, 1.** Repeal, 2.

**Harrisburg hospital to vaccinate all persons; Proviso.**

1. That managers of the Harrisburg Hospital, at a compensation of two hundred and fifty dollars (\$250) per annum, to be paid to said managers, shall and they are hereby directed to cause all persons within the city limits to be vaccinated, who have not been vaccinated within the last seven years; *Provided*, Such persons may, at their option, cause it to be done immediately by their family physician; *And provided further*, That it shall not apply to persons who have had the smallpox or varioloid, and that the said managers shall procure and pay for all vaccine matter used

for vaccinating persons mentioned in the foregoing ordinance. 4 Jan., 1873. 1, 603, §1; amended 18 Sept., 1879. 2, 78, §1.

**Repeal.**

2. That all ordinances or parts of ordinances inconsistent herewith be and the same is hereby repealed. Id., §2.

## Vagrants.

Appeal, how made, 8.  
To labor upon streets, &c., 1.

No fees for arrests, &c., allowed, 2.  
Supervisors to have charge of, 1.

**Vagrants, &c., to work.**

1. That all vagrants, persons without visible means of support, or some legitimate business, drunken and disorderly persons found within the limits of said city, shall be arrested by the police officers and forthwith delivered to the keeper of the lock-up, there to be confined until a hearing shall be had on the offense or offenses with which he, she or they may be charged, which hearing shall be had before the mayor, alderman or some committing magistrate, within twenty-four hours after the arrest and delivery of said vagrant, drunken or disorderly person or persons having no visible means of support or some legitimate business, and upon the hearing as aforesaid any person convicted and adjudged to be a vagrant or person without visible means of support, or some legitimate business, unless criminal charges be preferred against him, her or them, shall forthwith be delivered over on all secular days to the supervisor or supervisors of the respective street districts by an officer or officers designated by the mayor or committing magistrate before whom the hearing was had, and it shall be the duty of the said supervisor or supervisors to take into their custody and charge and to compel all ablebodied vagrants and persons without visible means of support, or some legitimate business, to labor upon the streets of said city or elsewhere, most expedient and beneficial for the said city, for a period not exceeding thirty days, to be determined and adjudged by the mayor, alderman or some other committing magistrate before whom the hearing shall have been had, and that all drunken and disorderly persons confined as aforesaid shall, upon due proof and conviction of his, her or their drunkenness or disorderly conduct, be punished as is now provided by law. 15 Feb., 1875. 3, 133, §1.

**No fees for arrests, &c.**

2. That no fees, costs or emoluments shall be allowed any officer for arresting or confining any vagrant, drunken or disorderly person or persons having no visible means of support or some legitimate business within the limits of the city aforesaid, and no fee, costs, compensation, emolument or reward shall be allowed or paid to the respective supervisors for discharging the duties imposed upon them by this ordinance. Id., §2.

**Appeal.**

3. Any person or persons who may deem himself or herself aggrieved by the judgment of the mayor or committing magis-

trate may appeal to the next court of quarter sessions of Dauphin county, upon giving bail in a sum not exceeding two hundred dollars, conditioned for the payment of all costs, which have accrued and which hereafter may accrue on the hearing of said case in court. Id., §3.

## Vaults and Areas.

[See BUILDINGS—CELLAR DOORS.]

Areas to be enclosed in three weeks; penalty, 2.	Permit to be obtained, 1.
Areas to be enclosed with railing; penalty, 4.	Railing, 8.
F. K. Boas, permission to, 13.	B. Singerly, permission to, 12.
Clerk of council to notify mayor, 7.	Size of areas, 8.
Entrances to be covered; penalty, 6.	Vaults, grate or covering of not to be removed, 11.
Extent of vault, 8.	Vaults, how constructed; penalty, 2.
Lane S. Hart, permission to, 14.	Vaults, to be protected; penalty, 10.
Material of vaults; penalty, 8.	Vault, what constitutes, 6.
	Vaults, when enclosed; penalty, 2.

### Permit to be obtained.

1. That any person desiring permission to construct a vault or area in any of the streets, shall make application to the clerk of council, giving a description of the premises, and, on their paying the sum of twenty-five cents to the city treasurer, the clerk shall grant them a permit to construct said vault or area. 10 Dec., 1862. 1, 95, §1.

### Vaults and areas to be enclosed.

2. That all vaults shall be completed and the ground closed over them, and all areas shall be completed and railed in or enclosed within three weeks after they shall be commenced, under the penalty of five dollars for every day thereafter during the time which the said vault shall remain open, or the said area be unenclosed; to be recovered from the owner or builder of the same, unless the mayor shall, for sufficient reasons, extend the time for the completion of the same, which he is hereby authorized to do. Id., §2.

### Extent of vault; Railing; Sine.

3. That no area in front of any building in the streets of the city, shall extend more than four feet four inches, measuring from the inner wall of such area to the building, nor shall the railing of such area be placed more than six inches from the inside of the coping on the wall of such area; and no vault shall extend to a greater distance than to the line of the curb from the building line in any street, lane or alley, so as to have the extreme line of the foundation of the vault on or under the line of the curb, under the penalty of ten dollars, to be recovered from the owner or builder thereof. Id., §3.

### Areas to be enclosed with railing.

4. That every area shall be enclosed with railing at least three feet and a half high from the pavement, including the coping of the wall, with gates constructed to open inwardly, under the penalty of twenty dollars for each offense, to be recovered from the owner or builder thereof. Id., §4.

**Vaults, what constitute.**

5. That every description of opening below the surface of the pavement in front of any shop, store, house or other building, except cellar doorways and cellar steps, if covered, shall be held to be a vault, and if open, to be an area within the meaning of this ordinance. Id., §5.

**Entrances to be covered.**

6. That all entrances to the cellar or basement of any store or dwelling, or any other building in any street, lane or alley of the city, which have steps descending below the pavement or sidewalk, shall be covered, when not in actual use, with good and sufficient iron or wooden doors or grates on or above the level of the sidewalk, or be enclosed with good and sufficient wood or iron railing, of a height sufficient to prevent danger to the lives or limbs of persons who may be passing along said street, lane or alley; and any person violating this section, shall pay a fine of ten dollars for each and every offense, and a further fine of five dollars for every ten days such entrance shall remain without such door or railing, after the first conviction. Id., §6.

**Clerk to notify mayor of permits.**

7. That it shall be the duty of the clerk of the council to give information to the mayor, whenever a permit is granted for the construction of a vault or area, in any of the streets of the city. Id., §8.

**Vaults to be constructed of stone or brick.**

8. That all vaults shall be constructed of stone or brick, and arched over with the same material, in a good and substantial manner, under a penalty of twenty dollars for a violation of this provision, and the further penalty of twenty dollars during each and every month until the same shall be constructed according to the provisions of this ordinance, to be paid by the person or persons who may cause or direct the same to be constructed. Id., §9.

**Vaults, how to be constructed.**

9. That the apertures to vaults under the pavements or footways, shall be constructed at the extreme wall of the vault, next to the line of the curb of said pavement, and the iron gates or other material, which shall be used to cover the apertures, shall not exceed two feet in diameter, and shall be placed on a level with the surface of the pavement, so as not to create any obstruction in the use of the said pavements or footways, and shall be constructed so as to be fastened on the inside securely, to prevent their being removed by evil design or accident; and if any vault shall be constructed of less extent than the line of the curb, and the aperture to the same shall be placed in or near the middle of the pavement or footway, the grate or other material used to cover said aperture, shall be sunk not less than three inches below the surface of said pavement or footway, and shall be securely covered by a wooden or stone frame, which shall be even with the said footway or pavement and firmly fastened to the grate, secured as aforesaid; and if any owner or occupier of property

shall hereafter cause or permit any grate to be placed upon the footway or pavement attached to his or her premises, not constructed conformably to the provisions of this section, he, she or they shall incur a penalty of ten dollars, and one dollar for each day it shall remain after notice given by the proper officer to alter, change or remove the same. Id., §10.

**Opening to be covered, and protected.**

10. During the time that any vault is being constructed and until the same shall be covered in and completed, the person or persons constructing, or causing the same to be constructed, shall cause a bridge or planking to be placed over the same, sufficient to allow foot passengers to pass, and shall also cause so much of the said vault as is not covered by the said bridge or planking to be fenced in and enclosed, and to be lighted at night by at least one lamp; and every person who shall neglect so to place such bridge or planking, or to fence in and enclose such vault, or light the same as herein directed, shall forfeit and pay for every such offense the sum of five dollars for each day. Id., §11; amended 4 May, 1867. 7, 313, §1.

**Removal of any grate or covering.**

11. That no person shall remove or cause to be removed, any grate or covering to the opening or aperture of any vault in any of the streets of the city, without enclosing such aperture during the time such grate or covering is removed, with a strong box or curb, at least twelve inches high, and firmly securing the same, under a penalty of ten dollars for each and every neglect. Id., §12.

**Permit to Benjamin SINGERLY.**

12. That Mr. Benjamin SINGERLY be and is hereby authorized to construct a vault under Blackberry alley, from the corner of Third street to the end of his lot; said vault not to extend more than ten (10) feet under said alley; *Provided*, That said vault be so constructed and kept in repair as to cause no obstruction to said alley, or in any way interfere with the ordinary use of the same. 4 Sept., 1869. 1, 404, §1.

**Permit to F. K. Boas.**

13. That F. K. Boas, his heirs or assigns, have permission to erect and construct a vault in Strawberry alley, in the Third ward of the city, in front of the lot owned by him, known as the "Billiard Saloon," beginning at the line of the lot of Robert J. Fleming, "thence along the line of the lot of the said F. K. Boas twenty one feet more or less to the line of the lot of the "Dauphin County Prison," thence towards Market street to the center of Strawberry alley aforesaid, "thence along the same towards Third street twenty-one feet more or less," thence along the same to the line of the lot of Robert J. Fleming, the place of beginning; *Provided*, That the said F. K. Boas, his heirs or assigns, shall keep the said portion of the said alley and pavement used by him or them in proper repair forever and be liable in law for all damages that may occur by a neglect thereof. 7 Oct., 1872. 1, 583, §1.



**Permit to Lane S. Hart.**

14. That Lane S. Hart, his heirs or assigns, be and they are hereby granted permission to erect and construct a vault in Dewberry avenue, in the Third ward of the city, in front of the lot owned by him on the southeast corner of Strawberry and Dewberry avenues; *Provided*, The said vault is constructed only in front of his own premises, and to the center of the said Dewberry avenue; *And provided further*, That the said Lane S. Hart, his heirs or assigns, shall keep the said portion of the said avenue and pavement used by him or them in proper repair forever, and be liable in law for all damages that may accrue by a neglect thereof. 5 Aug., 1886. 4, 99, §1.

## Wages.

**Repeal, 2.**

Wages of laborers in departments of  
the city regulated, 1.

**Wages of laborers in departments of the city regulated.**

1. That from and after the passage and approval of this ordinance, the sum of not less than fifteen cents per hour shall be paid all laborers in the different departments of the city where laborers are employed. 8 July, 1895. A, 723, §1.

**Repeal.**

2. All ordinances, resolutions and regulations inconsistent with this ordinance, be and the same are hereby repealed. Id., §2.

## Wards.

[See BOUNDARIES.]

**Additions in 1869, 2.**

City divided into wards, 1.

Tenth ward, 3.

**City divided into wards.**

1. That territory included within the boundaries of the City of Harrisburg, as described in section one of the act entitled "An Act to incorporate the City of Harrisburg, in the county of Dauphin," and approved the nineteenth day of March, Anno Domini one thousand eight hundred and sixty, and the extended limits by this act shall be divided into nine wards, in the following manner, to wit:

**First ward.**

All of the said territory within the following boundaries, to wit: Beginning at a point at low-water mark in the Susquehanna river, at the intersection of Paxton street; thence by the middle of Paxton street to the middle of Eleventh street, the present city limits; thence out Eleventh street to the Middletown turnpike; thence along the middle of the Middletown turnpike to the east of the Lochiel flouring mills to Spring creek; thence down Spring creek to low-water mark of the Susquehanna river; thence along the line of said low-water mark to the present southern boundary line of

said city; thence by said low-water mark to the place of beginning, shall be one ward, and called the First ward; but no street, lanes or alleys shall be opened within the boundaries constituting the said First ward, unless consent be given in writing by the respective owners of property, who might be affected by the opening of such streets, lanes or alleys.

**Second ward.**

All of the said territory included within the following boundaries, to wit: Beginning at the western boundary line of said city, at a point opposite to the northern corner of the abutment of the Cumberland Valley Railroad bridge; thence across the Susquehanna river by the northern side of the said bridge to the western side of Front street, in said city; thence across said street to the middle of Mulberry street; thence along the middle of said Mulberry street to its intersection with Third street, and thence by a line parallel to the eastern boundary line to said city; thence along said eastern boundary line to the middle of Paxton street; thence along the middle of said Paxton street to the western side of the Susquehanna river; thence along said river in a line parallel with the Cumberland Valley Railroad bridge to the western boundary line of said city; thence up along said boundary line to the place of beginning, shall be one ward, to be called the Second ward.

**Third ward.**

All of the said territory included within the following boundaries, to wit: Beginning at the northwest corner of the said Second ward; thence along the northern boundary of the said last mentioned ward to the corner of Third street; thence by the line of the Cumberland Valley Railroad to the middle of Fourth street; thence along the middle of the said Fourth street to the middle of Walnut street; thence along the middle of Walnut street to the eastern side of the said river; thence across said river on a line parallel with the northern boundary line of the said Second ward to the western boundary line of the said city, and thence down the said western boundary line to the northwestern corner of said Second ward and place of beginning, shall be one ward, and called the Third ward.

**Fourth ward.**

And so much of the said city included within the following boundaries, to wit: Beginning at the northwestern corner of the said Third ward; thence along the northern boundary line of the said ward to the middle of Fourth street; thence in the middle of the said Fourth street to North street; thence across the basin grounds in a straight line to the middle of Sixth street or Ridge avenue, to the middle of Forster street; thence along the middle of Forster street to the eastern side of the said river; thence across the said river on a line parallel with the northern boundary line of the said Third ward to the western boundary line of the said city, and thence down the said western boundary line to the northwestern corner of said Third ward and place of beginning, shall be one ward, and shall be called the Fourth ward.

**Fifth ward.**

And so much of the said city included within the following boundaries, to wit: Beginning at the northwestern corner of the said Fourth ward; thence along the northern boundary line of the said ward to the eastern boundary line of the said Third ward; thence along the middle of the said Sixth street to the middle of Verbeke street; thence along the middle of said Verbeke street to the eastern side of the said river; thence across the said river by a line parallel to the northern line of the said Fourth ward to a point in the western boundary line of the said city, and thence down said last mentioned line to the northwestern corner of the said Fourth ward and place of beginning, shall be one ward, and called the Fifth ward.

**Sixth ward.**

And so much of the said territory included in the following boundaries, to wit: Beginning at the northwestern corner of the said Fifth ward; thence along the northern boundary line of the said Fifth ward to the northeastern corner of the said Fifth ward; thence along the middle of the said Sixth street to the northern boundary line of the said city; thence along the said northern boundary line to the northwestern boundary line, across the said river to the western boundary line of the said city; thence down the said western boundary line to the northwestern corner of the said Fifth ward, the place of beginning, shall be one ward, and shall be called the Sixth ward.

**Seventh ward.**

And so much of the said city included within the following boundaries, to wit: Beginning at the northeastern corner of said Sixth ward; thence along the northeastern boundary line of the said city to the eastern boundary line; along the southeastern line of the said Fifth ward to the eastern boundary line of said city; thence down said boundary line to the middle of Forster street; thence along the said Forster street to the middle of Sixth street or Ridge avenue; thence along the middle of the said Sixth street to Maclay street, the place of beginning, shall be one ward, and called the Seventh ward.

**Eighth ward.**

And so much of the said territory included in the following boundaries, to wit: Beginning at the southeastern corner of the Seventh ward; thence along the middle of Forster street to the eastern boundary of the city line; thence down said line to the middle of Walnut street; thence along the middle of said Walnut street to the southeastern boundary line of the Fourth ward; thence along said line to the place of beginning, shall be one ward, and be called the Eighth ward.

**Ninth ward.**

And so much of the said territory included in the following boundaries, to wit: Beginning at the southwestern corner of the said Eighth ward, in the middle of Walnut street; thence along

the boundary of the said Eighth ward to the eastern boundary of said city; thence along the said boundary line to the corner of the Second ward; thence along the line of the said Second ward to the corner of the Third ward, and thence along the boundary line of the said Third ward to the middle of Walnut street, the place of beginning, shall be one ward, and be called the Ninth ward.<sup>1</sup> 22 April, 1868. P. L. 1141, §1.

1 The borough was divided into two wards, North and South, by the Act of 30 March, 1824. P. L. 229, Market street being the dividing line. By the Act of 8 April, 1850. P. L. 414, the borough was divided into four election districts, North and West Districts of the North ward, and South and East Districts of the South ward. The city charter (Act of 19 March, 1860. P. L. 176) divided the city into six wards, as follows: •

That the territory included within the boundaries of the City of Harrisburg, as described in the preceding section of this act, shall be divided into six wards, in the following manner, to wit:

#### First ward.

All of the said territory lying south and east of a line beginning at the western boundary line of the said city, at a point opposite to the northern corner of the abutment of the Cumberland Valley Railroad bridge; thence across the Susquehanna river, by the northern side of the said bridge, to the western side of Front street, in said city; thence across said street to the middle of Mulberry street, at its junction with Front street, in said city; thence along the middle of said Mulberry street to its intersection with Third street, in the said city, and thence by a line parallel to the southern boundary line of the said city, to a point on the eastern boundary line of the said city, shall be one ward, and shall be called the First ward.

#### Second ward.

All of the said territory included within the following boundaries, to wit: Beginning at the northwest corner of the said First ward; thence along the northern boundary of the said last mentioned ward to the eastern corner of the said ward; thence by the eastern boundary line of the said city to a point in said boundary line opposite to the middle of Market street, in the said city; thence by a line parallel to the northern boundary of said First ward to the middle of Market street, at the intersection of said street with Canal street, in the said city; thence by the middle of Market street to a point opposite to the eastern side of the toll-house of the Harrisburg bridge; thence across the said river (including said toll-house), by the northern side of the said bridge, to a point in

the western line of the said city opposite to the northern corner of the abutment of said bridge, and thence down the said river, by the low-water mark thereof, to the northwestern corner of the said First ward and place of beginning, shall be one ward, and shall be called the Second ward.

#### Third ward.

And so much of the said city included within the following boundaries, to wit: Beginning at the northwestern corner of the said Second ward; thence along the northern boundary line of the said ward to the eastern boundary line of the said city; thence along the said boundary line to a point in the said line opposite to the middle of Walnut street, in the said city; thence by a line parallel with the northern boundary line of the said Second ward to the middle of Walnut street, at its intersection with Third street; thence along the northern side of Third street to a point opposite to the middle of Pine street; thence across Third, and along the middle of Pine street, to the eastern side of the said river; thence across the said river, by a line parallel to the northern line of said Second ward, to a point in the western boundary line of the said city, and thence down said last mentioned line to the northwestern corner of said Second ward and place of beginning, shall be one ward, and called the Third ward.

#### Fourth ward.

And so much of the said territory included in the following boundaries, to wit: Beginning at the northwestern corner of the said Third ward; thence along the northern boundary line of said Third ward to the eastern boundary line of the said city; thence along the said eastern boundary line to a point opposite to the middle of North street, in the said city; thence on a line parallel with the northern line of said Third ward to the middle of North street, in said city; and thence along the middle of North street to the eastern side of the said river; thence across said river, on a line parallel with the northern boundary line of said Third ward, to the western boundary line of the said city; and thence down the said western boundary line to the northwestern corner of said Third

**Additions in 1869.**

2. That the territory added to the city by the act of Assembly approved April 9, 1869, entitled "A supplement to the act of incorporating the City of Harrisburg, in the county of Dauphin," is hereby annexed to the several adjoining wards, as follows:

1st. The territory below the Poor House road to the First ward.

2d. The territory between the Poor House road and the Hummelstown turnpike to the Second ward.

3d. The territory between the Hummelstown turnpike and the line of Walnut street, extending to the city boundary, to the Ninth ward.

4th. The territory between the last mentioned line and the line of Forster street, extending to the city boundary, to the Eighth ward, and

5th. All the remaining territory to the Seventh ward. 5 June, 1869. 1, 398, §1.

3. [For Tenth ward,<sup>1</sup> see Boundaries, 4.]

ward and place of beginning, shall be one ward, and called the Fourth ward.

**Fifth ward.**

And so much of the said territory included in the following boundaries, to wit: Beginning at the northwestern corner of the said Fourth ward; thence along the northern boundary line of the said Fourth ward to the eastern boundary line of the said city to a point opposite to the middle of the road leading from Hammon's tavern to the Pennsylvania canal; thence by a line parallel with the northern line of the said Fourth ward to the middle of the said road; thence along the middle of the said road to the eastern side of the said river; and thence across the said river, by a line parallel with the northern line of said Fourth ward,

to the western boundary line of the said city; and thence down said boundary line to the northwestern corner of the said Fourth ward and place of beginning, shall be one ward, and called the Fifth ward.

**Sixth ward.**

And all of the remainder of the territory of the said city shall also be one ward, and called the Sixth ward; *provided*, that in all assessments for taxation, the island in the said river, now the property of General John Forster, shall be assessed in the Third ward, and the islands in said river opposite to the Sixth ward shall be assessed in the Sixth ward. 19 March, 1860. P. L. 175, §2.

<sup>1</sup> The Tenth ward was created in 1896 (see Sessions Docket, No. 285, September Sessions, 1895).

**Warrants.**

[See CONTRACTS.]

Repeal, 2.

Who to draw, 1.

**Warrants, who to draw.**

1. That the head of each department of the city government shall draw and sign all warrants directed to the city treasurer, for the payment of the parties entitled thereto of the sums appropriated to pay any matter or thing properly in charge of or belonging or relating to each department; *Provided, however*, That the city clerk shall draw and sign all warrants to pay the city's printing and advertising bills, and cost of blank books, after the proper appropriation has been made. 14 Nov., 1893. A, 413, §1.

**Repeal.**

2. All ordinances or parts thereof inconsistent herewith be and the same are hereby repealed. Id., §2.

**Water and Lighting Department.<sup>1</sup>**

[See STREETS—SEWERS.]

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**Water house, use of.**

1. That no person or persons shall be allowed to enter the water house of this city or to loiter or remain in the vicinity of the same unless by a permit from a member of the "Watering Commission" of this council or on special business with the chief engineer of the water works; and it shall be the duty of the chief engineer and his assistants to exclude all persons from the said water house and grounds, unless allowed by permit as aforesaid; and no person or persons shall be permitted to deposit for keeping any private property whatsoever in the said water house. 10 July, 1877. 1, 563, §1.

**Duty of officers.**

2. That it shall be the duty of the public officers of this city to arrest any person or persons violating any of the provisions of this ordinance and make information against the same before the mayor or any alderman of this city, and any person or persons being convicted of violating the provisions aforesaid, shall be fined in a sum not exceeding twenty dollars, to be recovered for the use of the City of Harrisburg. Id., §2.

**Ordinance to be printed, &c.**

3. That copies of this ordinance shall be printed and placed in conspicuous places in and around the said water house. Id., §3.

**Discretionary power in chief engineer.**

4. That the carrying into execution of the provisions of an ordinance entitled "An ordinance relating to the water house,"

<sup>1</sup> See 5 April, 1873. P. L. 552, §12.

By ordinance of 28 March, 1894, A, 489, drinking fountains were provided at Third and Broad, Front and Paxton, Thirteenth and Market and State and Filbert streets; by 4 June, 1896. B, 79, at Sixth and Verbeck streets, and in front of the court house, the latter to take the

place of the first drinking fountain in the city, which was donated in 1870 by the late Hon. Robert A. Lamberton, LL.D., and which, after nearly twenty-five years of service, was damaged by a runaway; by 9 Nov., 1898. B, 413, at Fourth and Kelker, Sixth and MacLay and Derry and Mulberry streets.

be left to the chief engineer of the water works, with instructions to use discretionary powers, as to the ejection of persons visiting the water house and grounds attached. Res. 7 Aug., 1872. 1, 567.

**Water works, injury to.**

5. Any person who shall willfully injure, or in any manner interfere with, without due authority, the pipes, aqueducts, cisterns, reservoirs, hydrants or any works belonging to or connected with the water works of said city, and erected or constructed for the purpose of supplying the city with water, or shall willfully corrupt or otherwise render unwholesome the stream or streams of water which shall be brought into said reservoirs, works or aqueducts, by said city, or shall in any way pollute or render noxious or offensive the said water, every such person so offending shall forfeit and pay not less than five or more than one hundred dollars, at the discretion of the magistrate, to be recovered, with costs, in the corporate name of the City of Harrisburg, in the same manner as debts of like amount are recoverable, the one-half for the use of the person who shall give the information, and the other half for the use of the city; and if any person against whom such judgment shall be rendered shall neglect or refuse to pay the amount of such judgment, and no goods or chattels of such person can be found whereon to levy the same by execution, then such person or persons shall be committed to the jail of the county where he shall have been tried and convicted for any period not less than six or more than thirty days, at the discretion of the justice rendering such judgment, and shall, moreover, remain liable for the full amount of damages to said city, in any other action instituted by the city, and shall, moreover, be subject to indictment for the same. 5 April, 1873. P. L. 554, §11.

**Rate of work to be fixed.**

6. That all contracts for the laying of water pipe or the construction of sewers or for any other purpose which requires the opening or excavating of any street or avenue of this city hereafter let, shall fix a rate at which the contractor shall complete the work and remove all materials and debris from the street and restore it to as good condition as it was when the work was begun, as near as may be, and such contracts shall also impose upon the contractor a penalty of at least five dollars for each and every day after the date so fixed for the completion of the work until all obstructions are removed from the street or avenue, and each penalty shall be deducted from the contract price to be paid for the work. 26 May, 1885. 2, 118, §1.

**Water frontage tax regulated.**

7. That the sum per foot front, which the owners of property abutting on any street or highway in which water pipes are laid shall pay therefor, shall hereafter be as follows, viz: For all six-inch pipes the sum of eighty cents per foot front on both sides of such street or other highway. The sum of ninety cents per

foot front along both sides of any street or highway in which eight-inch water pipes are laid, and the sum of one dollar per foot front along both sides of any street or other highway in which water pipes of ten inches or of greater external capacity are laid. Which amounts shall be charged, collected and paid within such time after the work is completed, as is now provided by ordinance, and if paid within three months after the date of notice of the assessment, shall entitle the owner of the property paying the assessment to an abatement of water rents equal to the aggregate amount of the assessment so charged and paid. 23 March, 1888. 2, 259, §1; amended 26 March, 1889. 4, 287, §1.

**Cost of laying water pipe to be computed.**

8. That the costs and expenses of water pipe which may hereafter be laid in any streets or avenues of this City, under the provisions of Clause 14 of section 50 of the Act of Assembly, approved May 23, 1874, shall be paid by the owner of the ground in front whereof the same may be laid, and shall be computed at the rate of one dollar and ten cents per lineal foot frontage; *Provided*, That on all corner lots an allowance shall be made of one-third the length of their fronts on the street or avenue having the longest front. In case both fronts are equal, the allowance shall be made in the street or avenue in which the pipe shall be last laid, but such allowance shall not exceed sixty feet on any corner lot; *Provided always*, That no allowance shall be made for frontage of lots whereon dwellings are erected, except for the corner dwelling. 27 Feb., 1882. 3, 422, §1.

**Map to be made.**

9. The city engineer shall make a map or plan showing all the property fronting on the street or avenue, or portion thereof, in which the pipe is laid, with the names of the owners and the number of feet frontage to each lot, the proportionate amount which each several owners shall pay, and deliver the same to the city treasurer. *Id.*, §2.

**Notice of assessments; Liens.**

10. The clerk of common council, upon completion of the work, shall give notice to each property owner from whom an assessment is due that the same is payable to the city treasurer within twenty days from the date of such notice. After the expiration of the notice herein provided the city treasurer shall certify the names of the delinquents, with the amounts due from each, together with a description of the lots against which the assessments rest to the city solicitor, to be entered as liens in the proper docket in the prothonotary's office, and the city solicitor shall promptly cause the same to be so entered, and the said liens shall bear interest at the rate of six per centum per annum from the date of entry. *Id.*, §3.

**Permit to tap pipes; Conditions.**

11. Where pipes have been, or may hereafter be laid in front of lots having thereon springs or wells from which water is sup-



plied, the owners of such lots shall, before tapping such pipe, file with the city treasurer a written application for permits, which application shall contain a clearly expressed promise by the applicant to comply with all the provisions of this ordinance, and of the act of Assembly under which it is passed, and the city treasurer shall issue such permit upon payment to him of the amount of the assessment levied under this ordinance, and in case a lien therefore has been entered, upon the certificate of the city solicitor, that all costs have been paid. But no water shall be supplied to any property, in whole or in part, until and unless the entire assessment due, as originally made under this ordinance, together with all interest and legal costs have been paid; and any person who shall tap a water pipe in any highway within this city, for the purpose of obtaining water therefrom, without first complying with the provisions of this ordinance, or before the entire assessment, as originally levied and due, pursuant to the provisions of this ordinance, together with all interests and costs are fully paid, shall, upon conviction thereof before the mayor or any alderman of the city, be fined not less than fifty or more than one hundred dollars, and any such connection shall be immediately cut and displaced. Id., §4.

**No abatement after three months.**

12. No premises or parts thereof, upon which an assessment of water frontage tax for laying water pipe has remained unpaid for more than three months shall be entitled to any abatement or exoneration of, or from the payment of any water rents thereafter accrued, nor shall the owner or his heirs, vendees or assigns be allowed any exonerations or abatements from water rents due from any other property. Id., §5.

**Repeal.**

13. All ordinances now in force in conflict with this ordinance are hereby, to that extent, repealed. Id., §6.

**Tapping fees for, regulated.**

14. That from and after the passage of this ordinance the amount to be paid to the city treasurer for permits for tapping water mains in the City of Harrisburg shall be as follows, viz: For ferrule to be furnished by the city, including the insertion in water main, three dollars; for permit, twenty-five cents. 12 March, 1886. 4, 95, §1.

**Regulation iron box to be used.**

15. That hereafter an iron box with iron cover shall be adopted by the water committee and approved by council, and none other permitted to be used; said box shall be not less than two inches in diameter, with an iron stem to stop-cock, reaching nearly to top of box and adjustable to height of pavement. Id., §2.

**Repeal.**

16. That all ordinances or parts of ordinances conflicting with the provisions of this ordinance, be and the same are hereby repealed and annulled. Id., §3.

**Rules and regulations for the water department.**

17. That the following rules and regulations be and they are hereby established for the water department of said city. 7 April, 1891. 2, 243, §1.

**Water year.**

18. Article 1. The water year shall commence on the first day of April in each year, and all bills for the use of water, except for water metered, or at special rates for less than one year, shall be due and payable on said day. If paid on or before July 1st, an abatement of three per centum will be allowed. If not paid on or before October 1st, a penalty of five per centum will be added. If not paid before December 31st, the owner shall be deemed delinquent, and the board shall have the water shut off, or cause a lien to be filed, at its discretion. Id., §2.

**Water book.**

19. Article 1. The assessments for water rents shall be made under direction of the board, and entered by its secretary in a book to be called the "Water Book," which shall contain the name of each owner of property whereon city water is used, or entitled to pay a protective tax, the location of the premises upon which the water is used or tax charged, with the number of the building, if any, the name of the street or avenue, the total amount of assessments, each item of charge, and a column for remarks, which book shall be completed and placed in the office of the city treasurer on or before the first day of April annually.

Article 2. On rendering bills for metered water the names of the persons to whom such bills shall be rendered shall be furnished to the city treasurer in a book provided for the purpose by the board, and a duplicate of said book shall be kept in its office. Id., §3.

**Restriction.**

20. Article 1. The board may restrict and regulate the quantity of water to be used by all consumers, if in its judgment such restriction and regulation should become necessary for the public good, and in case of necessity the board shall have the right to shut off the general supply in order to make repairs, due notice being given to all persons, whose supply of water may be diminished thereby. Id., §4.

**Access to premises.**

21. Article 1. The superintendent of the department or other proper official of the board shall have free access to all parts of the premises to which water is supplied, in order to make necessary examinations. In case access to the premises is denied to any authorized officer or agent of the department or board, or if he shall be hindered or obstructed in making any examination, the water shall be promptly turned off. Id., §5.

**Liability of owners.**

22. Article 1. All water rent, rates, charges and taxes shall be charged against, and be payable by, the owner or owners of

the premises whereon the water is used or tax charged. In all cases the real estate will be held for the charges. Id., §6.

**False representation.**

23. Article 1. If any consumer shall falsely represent the consumption of water, or number and kinds of openings, or make other openings than those reported to the board, such persons shall be liable to a fine of ten (\$10) dollars. Id., §7.

**Abatement for non-usage.**

24. Article 1. When water is not used, no abatement shall be made from the yearly charge unless a written notice of the intention to discontinue the use shall be given to the secretary of the board, and no abatement shall be allowed for less than three months. After receiving such notice, the water shall be turned off by the proper officer of the department, and the time of non-usage shall be computed from the date the water is turned off. Id., §8.

**Special agreements.**

25. Article 1. Any person, partnership, company or corporation, desiring to use the city water, may make application to the board, which is hereby authorized and empowered to make special agreements in writing, taking care that the rate agreed upon to be annually paid for the water, shall be entered in the "Water Book" in the office of the city treasurer, but no special contract shall be made whereby the right of the board or the city to shut off the water for the non-payment of the rates shall be waived. Id., §9.

**Fire hydrants.**

26. Article 1. If any person entrusted with a wrench of the fire hydrants, or others, not employes of the department, shall open any such hydrant on any occasion whatever, except in case of fire in the neighborhood, he, she, or they so offending shall forfeit and pay for each offense a sum not exceeding ten (\$10) dollars, and if the person or persons entrusted with a wrench as aforesaid shall neglect or refuse to shut off such hydrants as soon as the fire is extinguished, he or they shall forfeit and pay a like sum for each and every such offense. Id., §10.

**Ferrules.**

27. Article 1. Where an old-style driven ferrule is drawn from a main, it shall not be replaced, but a brass screw plug shall be inserted.

Article 2. A new corporation ferrule shall be inserted in its stead in a separate hole, and no other shall be used for new work without permission of the board of commissioners. Id., §11.

**Waste of water.**

28. Article 1. Any consumer or other person, who shall allow any stop to be turned on unnecessarily, or the water to be wasted, shall have the supply of water shut off, and the amount paid therefor shall be forfeited. When the water shall be shut off for a violation of this regulation, it shall not be again turned on until all back charges shall have been paid, and a permit pur-

chased from the city treasurer, who shall charge two (\$2) dollars therefor.

Article 2. No person shall willfully open a stop, or leave any opening in a condition so as to permit the water to waste, whether such persons be a water tenant or not.

Article 3. It shall be the duty of every police and sanitary officer, and every officer and employe of the department aforesaid, to give prompt and immediate information of any waste of water to the mayor or any alderman of the city, and to appear as a witness in every such case, and any officer or employe neglecting or failing so to do, shall be subject to instant dismissal by the proper authority. Id., §12.

**Unserviceable private pipes and boxes to be condemned.**

29. Article 1. Every supply pipe, not owned by the city, which shall be found to be unserviceable, shall be condemned, and its future use prohibited.

**Separate private pipes.**

Article 2. Whenever more than one property is supplied with city water from the same private pipe, the board may require a separate private service to be laid from the main to each property at the expense of the owner of the property thus supplied.

**Board may compel use of city mains.**

Article 3. Whenever city mains shall have been laid in any street or avenue, on which the property abutting was previously supplied by private pipes, the board shall have the right to compel the property owners to abandon the use of such private pipes, and to obtain the supply of water from said mains.

**Pipes; Stop-cock and box.**

Article 4. Any person or persons who shall use city water, shall cause the pipes conducting the same to be of sufficient strength and standard size and weight, and shall also have a stop-cock affixed thereto, with iron box of not less than three inches internal diameter, adjustable to the height of pavement, having a removable iron cover, to be approved by the board. Said box shall be placed not more than twelve inches from the curb.

**Stop-cock.**

Article 5. Every person supplied with water from a branch connected with a private pipe, shall have a sufficient stop-cock affixed to said branch, as near as conveniently may be to the private pipe aforesaid, so as to stop the supply of water through the said branch, when requisite, and not to interrupt the supply to other persons having a right to use the pipe with which such connection may be found; and every person neglecting or refusing to have such sufficient strength of pipe or pipes, or stop-cock, affixed as aforesaid shall forfeit and pay a sum not exceeding ten (\$10) dollars.

**Depth of pipe; Iron stop-boxes.**

Article 6. No pipe shall be laid at a less depth than 40 inches below the surface of the street, avenue or yard, and all stop-boxes, used to replace old ones, must be of iron at least three inches in-

ternal diameter, adjustable to the height of pavement or surface not projecting above the surface, and secured at top with removable iron cover.

#### **Repairs.**

Article 7. Stop-cock boxes and service pipes must be kept in repair by the owner thereof, and any expense incurred by the board in turning off water on account of leakage, or non-payment of rents, or repairing, must be refunded by the owner before the water will be turned on. Id., §13.

#### **Pave-wash.**

30. Article 1. The use of the pave-wash shall be restricted to the property on which it is located and the street immediately in front thereof, and shall not be used for any other purpose than herein specified.

#### **Sprinkling lawns, &c.**

Article 2. When its use is requested for sprinkling lawns or gardens, when the water is not metered, the board shall fix the rate, and in no case shall such use be permitted until said rate shall have been fixed and entered on the "Water Book," and the person so requesting shall have been notified in writing of the rate fixed, and the time during which it may be used.

#### **Hours for washing pavements, &c.**

Article 3. Its use for the washing of pavements and the sprinkling of streets is strictly prohibited between the hours of 9 a. m. and 5 p. m., and at all times from the first day of December to the first day of March. 7 April, 1891. 2, 423, §14; amended 8 June, 1891. 2, 438, §1.

That the board of commissioners of the water and lighting department and the highway commissioner be, and they are hereby requested to prohibit the use of water by street sprinklers on Market, Third and Sixth streets between the hours of 6 and 10 o'clock p. m. Res., 27 June, 1900.

#### **Plumbers; License required.**

31. Article 1. No person shall make attachment to any main, service pipe or other connection, by or through which water is supplied by the water department, or do any work about such pipes or connection, no matter where located, without having first obtained a license, as hereinafter required.

#### **License and bond.**

Article 2. Any plumber, wishing to do business in connection with the water department, shall procure a license from the board, and at the same time execute and deliver to the board a bond with two or more sureties, to be approved by the board, in the sum of five hundred (\$500) dollars, conditioned that he shall indemnify and save harmless the City of Harrisburg, or any officer of said city, against and from any and all injuries and damages incurred or sustained by any person by or from said licensed plumber, his servants or agents, in doing said work, or by or in consequence of any negligence in guarding the same, or any improper materials used thereon, or by or on account of any act or

omission of the said plumber, or his agents, and shall faithfully perform the work in all respects, and shall immediately after work is done, replace and restore the streets or avenues and pavements to as good state and condition as he found them.

**Statement to be made.**

Article 3. Each licensed plumber shall state in writing, for record, his actual place of business, together with the name under which the business is done, at the time of taking the license, and shall immediately notify the secretary of the board of any change in either thereafter.

**License restricted.**

Article 4. No licensed plumber shall be permitted to take out a license for work to be done by a person not in the employ of such plumber.

**Inspection.**

Article 5. The board, or its authorized agents, shall, at all times, have facilities for inspecting the plumbing or other work and fixtures, while under the charge of the plumber.

**Time for license.**

Article 6. All licensed plumbers shall, on or before the first day of April, A. D. 1891, or within twenty days after the approval of this ordinance, be furnished by the board with a license, which shall entitle the licensee to do work in the water department.

**License, what to contain.**

Article 7. Said licenses shall be signed by all or at least a majority of the board, and shall have written or printed thereon the name and address of the person or firm desiring to do any work in the department affecting the same, or to make any change in work already done, date of issue, and the rules and regulations relating to licensed plumbers.

**Report.**

Article 8. Licensed plumbers shall make full and complete report in writing to the board of all work done of every kind pertaining to or in any manner affecting the department, on the first day of each month, and said report shall include all work completed during the preceding month.

**Expiration of licenses.**

Article 9. All licenses heretofore issued to plumbers shall expire on the first day of April, A. D. 1891, or at the date of the approval of this ordinance.

**Revocation of licenses.**

Article 10. The board shall have the right to revoke any license for neglect or failure on the part of the licensee to observe the ordinances of the city, or any rule or regulation of the department, and to make such additional rules and regulations as it may deem necessary. 1 April, 1891. 2, 423, §15.

**Meters, when to be put in.**

32. Article 1. When any consumer shall prefer to pay the cost of such meter as shall be approved by the board, together with

the cost of putting in, and maintenance of the same, rather than to pay schedule rates, or for the quantity estimated, a meter shall be put in for such consumer.

**Board may cause meter to be put in.**

Article 2. The board may cause a meter to be put in at the city's cost in any case, and charge for measured water, instead of being governed by water rates.

**Charge when meter is out of order.**

Article 3. If a meter gets out of order and fails to register correctly, the consumer will be charged at the average daily consumption as shown by the meter when in order.

**Repairs.**

Article 4. Repairs of meters will be made by the board at the expense of the owners whenever the board deems repairs necessary.

**Meters, how to be set.**

Article 5. All meters will be set under the personal supervision of an employe of the department.

**Permit for meter.**

Article 6. Whenever any person shall desire to have a meter set, application shall be made to the board for a permit, which, when granted, shall state the kind and size of meter to be used. The city treasurer shall not receive payment for any meter without said permit.

**Permission of board necessary.**

Article 7. No meter shall be set, reset, or removed after having been set, without written permission of the board.

**Private meters regulated.**

Article 8. No private meter shall be set to measure water for two or more houses belonging to different owners.

**Meters must be used for water for all purposes.**

Article 9. All meters hereafter set for measuring water for domestic purposes shall meter all the water on the premises on which they are set. Id., §16.

**Meter measurement required.**

33. That from the first Monday of April, A. D. 1906, all water furnished by the City of Harrisburg shall be by meter measurement at the regulation rates established by the board of water commissioners, approved by councils, except where such water is used for private household purposes only, in which case the practice heretofore established may prevail. 21 March, 1905. D. 275, §1.

**Penalty.**

34. That after the first Monday in April, A. D. 1906, if any consumer of city water, for any other purposes than for private household uses only, shall fail or refuse to install a proper water meter for the correct measurement of the water consumed, the board of water commissioners, by its officers and workmen, shall cut off the water supply to premises not furnished with proper meters, and

reconnect the same with the city's water main pipes only when the proper meter or meters shall have been installed. Id., §2.

**Repeal.**

35. That all ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed. Id., §3.

**Motors and elevators to be metered.**

36. Article 11. All water motors and elevators shall be attached to meters, to be approved by the board, and furnished at the consumer's expense.

**Minimum charge.**

Article 12. The owner or owners of dwelling houses, in which metered water is used, shall pay at least five dollars (\$5) per annum for each house, and as much more as the water used shall be worth, computed at the established rates for metered water for domestic purposes.

**Bills.**

Article 13. All meters in use for measuring water for domestic purposes shall be read, and bills rendered quarterly, and all meters measuring water for other purposes shall be read, and bills rendered monthly, and bills for metered water shall be due and payable on presentation. If not paid within thirty days after the date of the bill, the water shall be shut off without further notice. When water shall have been shut off for non-payment, it will not be turned on again until one dollar (\$1) in addition to all arrearages shall have been paid to the city treasurer, and a receipt from him therefor shall have been presented to the proper officer of the department.

**Rent to be charged in all cases.**

Article 14. The board shall charge rent for a meter owned by the city whenever the water user does not require continuous service, and prefers to use water from any other source occasionally. 7 April, 1891. 2, 243, §16.

**Delinquents.**

37. Article 1. Whenever any person, firm or corporation becomes delinquent in the payment of water rent, whether such water be metered or not, the city treasurer shall at once notify the board in writing, giving the names of the delinquents, amount due and when said delinquency began. On receipt of such notice the board shall, without delay, enforce the ordinances, rules and regulations governing the case.

**Water, when to be turned on.**

Article 2. Water shall not be turned on to any new house or building where city water has been used in its construction, until the rent for the use of such water shall have been paid.

**Delinquents.**

Article 3. Owners of property or their agents, who have no service pipe on their premises, where city water is used, becoming delinquent for the same, shall be subject to a fine of five dol-



lars (\$5) and a lien shall be filed against their property for the rent unpaid. Id., §17.

**Water for building purposes.**

38. Article 1. Owners of property shall obtain a written permit from the secretary of the board before using the city water for building purposes, and, within thirty days after the completion of the building, file with said secretary a statement showing the amount of brick, plastering and stone used in the construction of the same, and the secretary shall furnish the city treasurer with a statement showing the amount to be charged for the use of such water, and the owner or owners of the building shall pay the said amount to the treasurer before the water for domestic purposes will be turned on. No person but the proper officer of the water department shall turn on said water. Upon the failure of any owner to render a true account of the material used for building purposes as aforesaid, the proper officer of the said department shall adjust the account, and the amount found by him to be due from such owner shall be entered as a lien and enforced against such property.

**Water for building purposes.**

Article 2. When metered water is used for building purposes, the amount consumed shall be paid before the water shall be turned on for domestic purposes. Id., §18.

**Motors.**

39. Article 1. No water motor shall be attached to any water main or service pipe without an application having been first filed with and a permit therefor granted by the board. Id., §19.

**Mains.**

40. Article 1. No person other than those designated by the board shall make any attachment to, or do any work upon, the city's water mains.

Article 2. Plumbers desiring to have attachments made to the mains, shall make written application to the secretary of the board fifteen hours in advance, when such ferrule will be furnished as the board may direct, on presentation of a receipt, showing payment therefor to the city treasury. The city treasury shall not receive any money for ferrules except upon a written order from the secretary or superintendent, designating the size to be used. At the time named for the insertion of the ferrule, the plumber shall have the ditch of such depth and width, and the main so exposed, that the work may be promptly and efficiently done. Id., §20.

**Street sprinklers.**

41. Article 1. The sprinkling of the streets shall be done at such times and in such manner as the board shall prescribe.

**Public street sprinklers.**

Article 2. No public street sprinkler shall be used by any person until a permit for its use shall be obtained from the board. Such permit shall have written or printed thereon the name of

the owner or owners of the sprinkler, its number, method of construction, capacity when full, route to be sprinkled, source of supply, hours of service daily and a copy of all rules and regulations governing its operations.

**Orifices regulated.**

Article 3. The orifices of the tube through which the water passes from the public street sprinkler to the street must not exceed one-sixteenth of an inch in diameter, nor shall there be more than sixty to the running foot of the tube.

**No waste.**

Article 4. In taking water for street sprinkling purposes no waste will be permitted.

**Sprinkling regulated.**

Article 5. All instructions received from an authorized inspector, relative to the sprinkling of the streets, shall be fully complied with, and all street sprinklers shall be subject to inspection by the proper authority, and when condemned, shall not be used until put into such condition as shall be acceptable to and approved by the board.

**Waste may cause revocation of permit.**

Article 6. Waste of water from defective hose, valves, connections of pipes or any neglect or failing to comply with any rule or regulation governing public street sprinklers, shall be sufficient cause for a revocation of a permit by the board.

**Additional rules may be made.**

Article 7. The board may make such additional rules and regulations as it may deem necessary. Id., §21.

**Miscellaneous use.**

42. Article 1. City water shall not be turned on in any new building where it has not been previously used, except by the proper officer of the board.

Article 2. All persons using water not embraced in these regulations, or provided for at special rates, shall pay such rates as the board shall determine. Id., §22.

**Penalties.**

43. Article 1. Any person or persons who shall violate or fail to comply with any of the foregoing rules or regulations, for the violation of or non-compliance with which a penalty has not been hereinbefore provided, shall, upon conviction before any alderman or mayor of the city, forfeit and pay the sum of five dollars (\$5), which shall be paid into the city treasury.

Article 2. All fines, forfeitures and penalties provided for herein shall be recoverable as other fines, forfeitures and penalties are recoverable by law. Id., §23.

**Repeal.**

44. Article 1. All ordinances or parts of ordinances inconsistent or conflicting with the provisions of this ordinance, be and the same are hereby repealed. Id., §24.

**Fee for tapping.**

45. That hereafter the fees for tapping the city's water main pipes shall be as follows: One-half-inch taps, each, \$3.25; three-quarters-inch taps, each, \$4.25; one-inch taps, each, \$5.25. All taps in excess of one inch shall be paid for at the rate established by the board of water commissioners, according to the size of the water main pipe desired to be tapped. 21 March, 1905. D, 282, §1.

**Taps, how made.**

46. No taps shall be made except in the presence of the duly authorized representative of the water board, after the fees aforesaid shall have been duly paid into the city treasury. Id., §2.

**Penalty.**

47. Any person violating any of the provisions of this ordinance, and being convicted thereof before the mayor or any alderman of the city, shall pay a fine of ten dollars for each offense, and in default of the payment thereof shall be imprisoned in the jail of Dauphin county for a period not exceeding thirty days. Id., §3.

**Repeal.**

48. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed. Id., §4.

**Water districts.**

49. That for the purpose of electing a board of commissioners of the water and lighting department in accordance with the provisions of an Act of Assembly entitled "An Act providing for the incorporation and government of cities of the third class," approved May 23, A. D. 1889, the City of Harrisburg is hereby divided into three districts as follows, viz:

The First, Second and Ninth wards shall constitute the First district.

The Third, Fourth and Fifth wards shall constitute the Second district.

The Sixth, Seventh, Eighth and Tenth wards shall constitute the Third district. 30 Dec., 1904. D, 237, §1.

**Repeal.**

50. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed. Id., §2.

## Water Closets.

[See SEWERS.]

## Weapons.

**Carrying weapons regulated.**

1. That any person who shall carry any pistol, dirk-knife, slung-shot or deadly weapon, within the city limits of Harrisburg, ex-

cept police officers, shall be deemed guilty of misdemeanor, and being convicted thereof, shall be sentenced to undergo an imprisonment or be fined in any sum not less than fifty dollars, or both, at the discretion of the court; and in case of non-payment of the fine so imposed, shall be imprisoned for a period of not less than three months, and be required to give security for future good behaviour. The fines collected shall be paid into the city treasury for the use of the city. 12 April, 1873. P. L. 735, §1.

### **Wires.**

[See POLES AND WIRES.]

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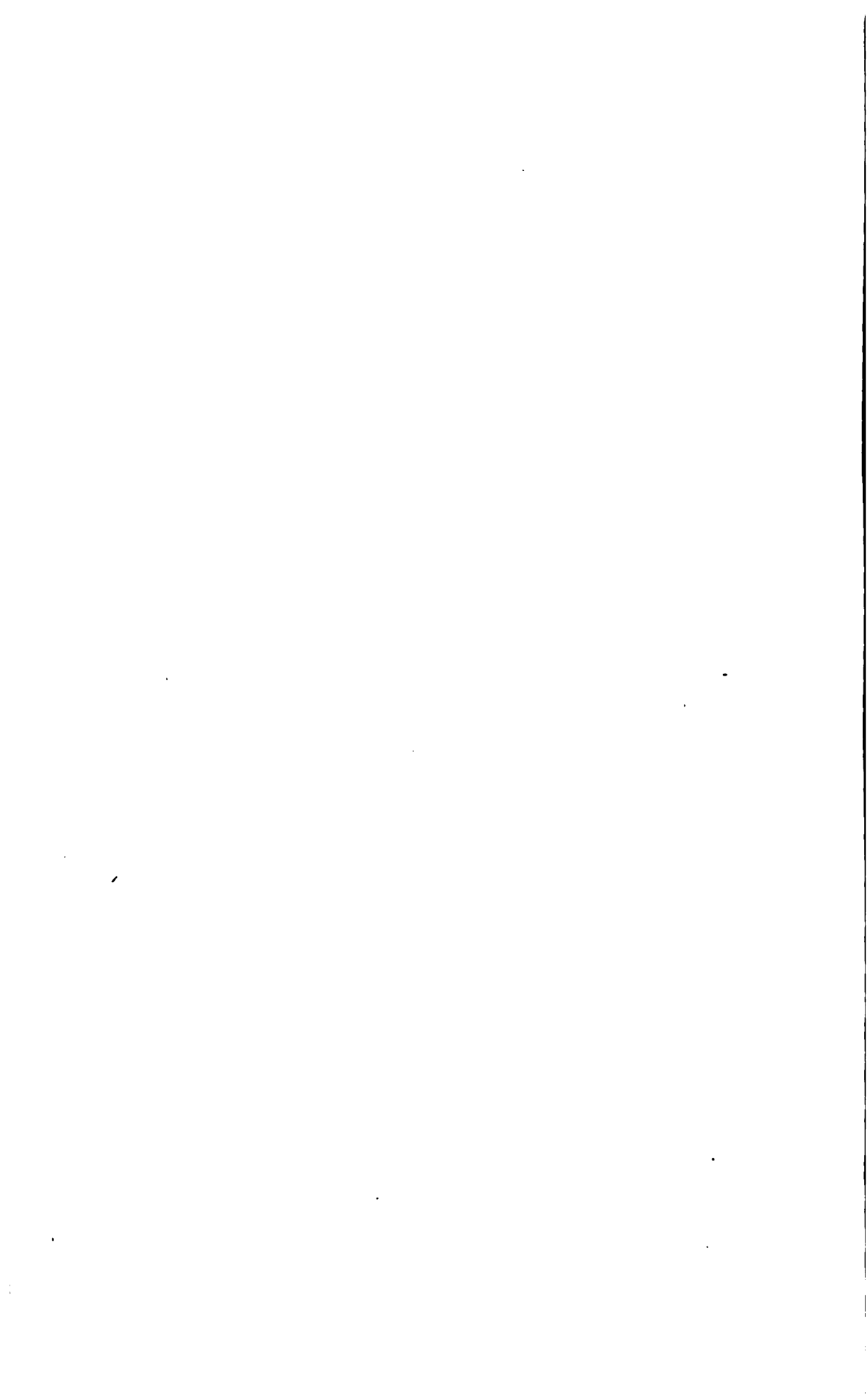
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LITTAUER CENTER  
of Public Administration

Books must be returned  
by 9.15 A.M. on date due.

*2 weeks*  
DUE JAN 8 44